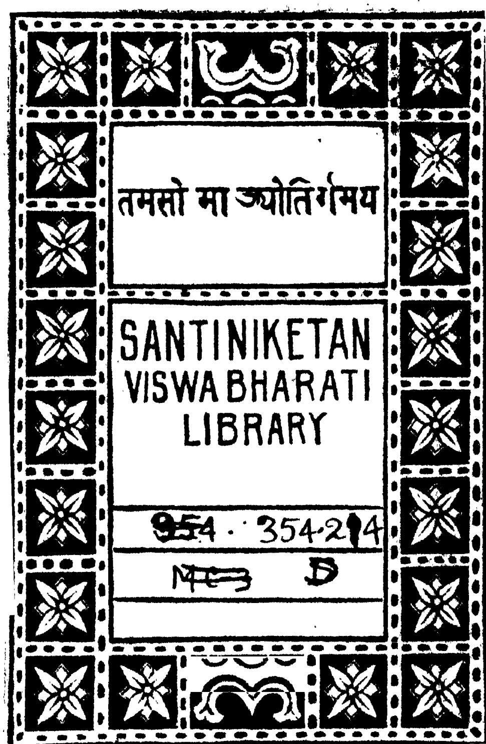


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Indian Constitutional Reforms

Government of India's Despatch of March 5th, 1919, and Connected Papers

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First Despatch on Indian Constitutional Reforms



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No. 1 of 1919.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

REFORMS.

To

THE RIGHT HONOURABLE EDWIN MONTAGU,

His Majesty's Secretary of State for India.

Delhi, March 5, 1919.

Sir,

Introductory.

We have the honour to lay before you our views upon the important questions raised in the Report on Indian constitutional reforms, dated April 22, 1918, by His Excellency the Viceroy and yourself.

Preliminary.

Reception of the Report.

2. The Report itself was published in India on July 8, 1918: and you will expect us to give you as clear an impression as we can of its reception. The non-official European community took some time to form their opinions on proposals so intricate and so far-reaching. Indian opinion declared itself more rapidly, and from the first there ensued a clear division between the moderate and the extreme political parties. The former declared definitely for the Report, with certain reservations; the latter against it. The strongest expression of the latter view occurred in a letter published even before the Report appeared, urging that anything which originates with foreigners should be rejected as violating the principle of self-determination. The most advanced Bengal politicians adopted an attitude of uncompromising opposition. In Madras the recognised leaders of the advanced party had some difficulty in preventing the special conference which was held to consider the proposals from taking the same line. But the more responsible section of the party declared that, while the proposals were disappointing and unsatisfactory and required radical modifications before they could be held to constitute any substantial step towards responsible government, effort should be concentrated on obtaining such modifications rather than on the wholesale rejection of the scheme. The attitude of the moderate party, which we believe includes the ablest and most respected Indian

opinion, was far more favourable to the Report. They welcomed its proposals as a real and substantial step towards the progressive realisation of responsible government in the provinces, and the modifications which they urged were, with the exception of those affecting the Government of India, concerned with the details rather than the essentials of the scheme. Opinion of this sort is fairly represented by the resolutions recorded by the majority of the non-official members of the Indian Legislative Council, of which we attach a copy. The independent line adopted by the moderates had for some time a restraining influence on the other party. The tendency which had at first been apparent to flout temperate opinion gave place to a desire for conciliation; and at the last moment efforts were made to induce the moderates to attend the special congress held at Bombay towards the end of August to consider the proposals. These efforts failed, but the abstention of the majority of moderates was not without effect. The leaders of the special congress made an appeal to moderates throughout the country to rally to the national association. There was no talk of rejecting the reform proposals. They were still declared, as you will gather from the summary of the resolutions which we append, to be disappointing and unsatisfactory; but the general decision was that with somewhat radical alterations they could be accepted as forming a substantial step towards responsible government. The change of tone did not persuade the moderates to come in, and they held a conference of their own at Bombay early in November. The resolutions passed by it will be found among the enclosures. The last of this series of meetings was the ordinary session of the Congress which met at Delhi in December. The spirit of toleration was no longer in the ascendant and in spite of all efforts to the contrary the most radical elements of the extreme party threw over most of their recognised leaders, and advanced claims far beyond any made at Bombay by demanding the grant of full responsible government in the provinces at once. We attach a copy of the resolutions passed.

Indian opinion.

3. Thus it may be said that while the most vocal sections of Indian opinion unite in claiming a further advance than has been proposed in the Report, there are between the attitude of the moderates and that of the more extreme politicians marked differences which we shall now explain. Both parties agree in urging that changes giving some measure of popular control should be introduced into the Government of India from the outset: and that the Government of India, acting under the control of the legislature, should enjoy the same power of regulating the fiscal policy of this country as the governments of the self-governing Dominions. There are also numerous points of agreement in matters of detail; but in regard to such questions of fundamental importance as the Council of State, the grand committee, the budget procedure, the relations of the Governor to his ministers, and a statutory guarantee for the grant of full responsible government within a fixed period, the two parties take very different lines. The extreme party would have no Council of State and no grand committee; and they desire to give the legislature complete control over the budget, and to make the Governor a purely constitutional Governor in relation to his ministers. As these demands, if satisfied, would give them complete control over legislation and finance, it makes little difference whether they claim complete responsible govern-

ment at once or after a limited period. On the other hand the moderates accept the principle of dualism in government, and in the provincial sphere they merely press for such changes in detail as equality of status between councillors and ministers, reconsideration of the proposal to appoint additional members without portfolios, the selection of heads of provinces from the ranks of public men in England, complete provincial autonomy in respect of transferred subjects, and the largest possible extension of the list of transferred subjects. Another phase of opinion, however, is represented by the memorial which we enclose from certain landholding members of the Indian Legislative Council who ask that progress should partly take the form of converting the leading zamindars into independent chiefs: a proposal clearly not in keeping with the principles set forth by His Majesty's Government. The great majority of the landholding class are more conservative. They have said little in public and are doubtful of their own preparedness to take their proper place in the forward movement. But they are unmistakably proud that India has been offered this signal mark of confidence, and in no sense hostile.

Non-official European opinion.

4. The non-official European community was at first disposed to question the wisdom of raising the subject of reforms during the war, but with the change in the situation in Europe this criticism lost much of its force. There is dissatisfaction with the proposal that the community, which forms the only element in the population accustomed to the working of responsible government, should not elect its own representatives on the provincial councils. They claim a separate electorate and representation in proportion to their importance rather than their numerical strength; and they doubt whether even this will sufficiently secure the interests of trade and industry. They think that the scheme as a whole is ingenious but too complex; and they fear that it may result in the transfer of power to the advanced political section to the detriment of the masses, who have no desire for any change in the system of government. They also dwell on the difficulty of presenting their opinion until the proposals in respect of electorates and the division of functions have been completed.

Official opinion.

5. Official opinion can be gauged only from individual deliverances. We think that the Bengal Government have endeavoured to summarise it faithfully in para. 3 of their letter. It is generally critical of the scheme; but we desire to take this oportunity of controverting the suggestion that has found some currency in this country that the criticism proceeds from a purely selfish point of view. Such a view is unfair to a body of men who have served India faithfully and have its real welfare strongly at heart. There is no justification for the charge that searching criticism of the particular proposals in the Report implies any opposition to the underlying policy. The difficulties of the problem loom large with those on whom the burden of administration now rests; and it is, we believe, their pride in and affection for their work which has made them the most anxious critics of far-reaching innovations. The permanent British official in India has not as a rule taken any part in the democratic institutions of his own land, and is frankly sceptical of their suitability to an eastern country. By the nature of his work, he comes into touch with

the vast masses of the people, who have no political aspirations, rather than with the more advanced thinkers. He apprehends that the former will suffer from the administrative inexperience of the latter: and he is anxious for safeguards which will protect them, while at the same time securing the standards of thoroughness and impartiality in public business to which he has been trained. By all the best elements in this class, the declaration of August, 1917, is accepted, and the need for advance is admitted; but the proposals of the Report are commonly criticised as going beyond the present needs of India.

Local Governments' opinions.

6. The cautions of the official mind are crystallized in the opinions of the local Governments. On their first perusal it must have disappointed the authors of the Report to find that the provincial Governments had devoted themselves so largely to destructive criticism. We do not think, however, that this was unnatural. Their opportunities for constructive work had come earlier; and their proposals, both individually and at the conference of Heads of provinces which met His Excellency and yourself in January, 1918, had been among the materials on which the conclusions embodied in the Report were based. They might thus not unreasonably feel that there was no further occasion for them to set out alternative schemes; and that the best service they could render us was to apply themselves to a vigorous and searching examination of the Report in detail. In this task, whether we agree with them or not, we must recognize the weight of their influence. The local Governments are repositories of practical first-hand experience of the working of the administrative machine. They know its limits and its possibilities, and the attitude of different sections of the people towards it. They can speak with intimate knowledge upon much that in the Report had to be dealt with on very general considerations. We feel that we owe all respect to their criticisms in detail. In this despatch therefore, although we have not handled them seriatim, we have attempted to deal with every point of substance that has been taken by a local Government. Their great value has been, not to throw doubt on the principles which we accept and which their examination has in no wise shaken, but to make us pause and remove defects which such examination reveals. The opinions of the provincial governments, as received by us, are attached to the despatch.

Position of the Government of India.

7. Lastly we come to a statement of our own position. When these questions of constitutional reform were under consideration last year the main responsibility rested upon the two authors of the Report. The members of the Government of India were indeed kept in close touch with the deliberations, and no important conclusions were arrived at without reference to them. They have also in their despatch no. 6, dated May 31, 1918, cordially supported the general policy which the Report embodies. We take our stand on that despatch. We are convinced that the time had come for the definition of our goal in India; and we can conceive no other goal, consistent with the ideals of British history, except that the people of India, helped and guided by us, should learn to govern themselves. Whether their national life will flow into the precise constitutional moulds to which Englishmen by tradition are attached, or whether—as we think equally possible—it will ultimately

work out for itself free institutions of a distinctive type, time alone can tell. Nor need we speculate whether India is going to borrow our history. Our clear duty is to put her into the way which we believe to be the best, and to allow the character of the nation, as it grows and is welded by experience and trial, to deflect our present methods gradually and intelligently towards ideals which it will adopt as its own. We regard it as beyond question that the first stage of advance must be a generous one, undertaken at the earliest possible moment. To postpone it now would be a confession of mistrust of our own work, and would alienate those classes in the country to whom we must look for the leadership of the new movement. We should particularly deplore any argument for delay, based on disclosures of revolutionary conspiracies which are utterly foreign to the real life of the people, and confined to an inconsiderable section. We believe indeed that, while it is necessary to deal firmly with crime arising out of these conspiracies, repressive measures, unless coupled with definite steps in the direction of political advance, can provide only a temporary remedy. There probably would be no point of time at which we should not feel that something still remained to be done by way of preparation for the beginnings of popular administration; but we must trust to perfect our work in co-operation with Indian public men, and we must be content to believe that we have laid our foundations well, and that they will bear the new superstructure. In all this we feel that we are moving with a spirit which is stronger than our calculations; and we accept whatever lies ahead. But that consideration only adds to the weight of responsibility which lies upon us when we come to advise upon the details of the plan of advance. To the form of provincial government which the Report sets up as the main vehicle of progress we have nothing to oppose; we have seen no alternative which in any way competes with it. But we can best fulfil our task and discharge our responsibility by helping you to develop the new system into a working proposition. It is a novelty in constitutions; and none of us can prophesy the manner of its growth. But there are to our minds certain universal tests of administrative machinery: its smoothness or friction in working, its burdensomeness on the people or the reverse, its educative value, and its capacity for further development. To every detail of the scheme therefore we have applied these tests, and our advice is based on its response to them. It has been no purpose of ours either to whittle down the scheme or to expand it. We take the scheme in the Report as one which, in all essentials, has our full adherence; and our sole aim has been to translate it into a working plan which, while free from obvious defects, will be in accord with the policy of His Majesty's Government.

Scope of this despatch.

8. In the present despatch we shall address ourselves first to an examination of the question of the type of government to be set up in the provinces, comparing it with any alternatives before us and giving our reasons for the preference which we express: and shall then go on to discuss the details of the scheme. In later despatches we shall deal successively with the reports of the subsidiary committees which have been at work under Lord Southborough; with the questions affecting the Princes and Chiefs; with the text of the Bill which will be presented to Parliament; and with any other matters remaining for consideration. In these, especially as

we have not yet examined Lord Southborough's committees' recommendations, we may find it necessary to revert to questions of policy, and to put forward further suggestions upon details. Endeavouring, as we have done, to forecast the practical working of the new arrangements, we are desirous of throwing much of the procedure into draft regulations, draft instructions, or subsidiary narrative, which can be referred to when the proposals come under the scrutiny of Parliament. It seems to us of much inportance that the mechanism of the new government should be foreseen and described as completely as possible, for the assistance of those who have to decide on the necessary legislation. Much must of course be left to practice and precedent; but even so, it would be inconvenient to set out in the present despatch, confined as it is to the main features of the scheme, all the considerations to which we wish to invite your attention.

Types of government.

Case for a dual executive.

9. By common consent the pivot of the scheme set out in the Report is the type of government proposed for the provinces. Discussion in India has largely focussed on this part of the project. It has attracted the bulk of the criticism which has been offered by local Governments; and it is a feature, novel and untried, regarding which we can readily understand that outside opinion is most exercised. We make no apology therefore for putting it in the forefront of our own examination of the scheme. We shall endeavour to show that, as we view the problem and the materials for its solution, a dual executive is in theory the best, and in practice the only, method open to us; that rival schemes which aim at a unified government fail to attain either their own objective or the purposes of His Majesty's Government; and that dualism, despite its novelty and its limitations, is the key to a practical system of administration which we are prepared to support. Finally we conclude that, the less it is moulded into an artificial appearance of unity, the better it will serve its purpose and the easier will be the judgment of the future upon the results of this great enterprise.

The aim and the conditions.

10. We start on the one hand with the declared intention of His Majesty's Government to seek "the progressive realization of responsible government" in India; and on the other with the facts, already set out in the Report, that India is at present ill-prepared by lack of education and political experience, and by the racial and religious divisions of her people, to sustain such a system in anything like completeness. As we shall have occasion to show you, there have been differences of opinion as to the precise meaning of the announcement of August 20, 1917. For ourselves we take it to mean the transfer of a gradually increasing share in the work of government to Indian administrators who will have openly to justify their policy and their actions to Indian electors. The class of workers may at first be little more than the existing intelligentsia, leavened with official criticism, but it will steadily enlarge as the political sense spreads through the new electorates. Such administrators will no doubt be directly responsible to the council from which they will be chosen, but though under the proposals in the Report the council will be in the main elected on a liberal franchise, we must

recognise that the electorate will for some time be unable either to formulate their requirements intelligently, or effectively to impose a mandate upon their representatives. This cardinal fact differentiates the degree and the kind of responsibility which we can at the outset introduce from that which we hope will be the eventual resultant of the new system, and imposes on us the duty of ensuring that the forces which now hold the administration together are not withdrawn before satisfactory substitutes are ready to take their place.

Essential features of the Report.

11. The existing system rests, as the Report shows, firmly on the statutory control of Parliament. The policy announced in August, 1917, means the gradual transfer of control from Parliament to legislatures in India, and the gradual replacement of the nominated governments now in office by governments of the representative type. The main proposal in the Report is that this change shall be effected by a process of dividing the sphere of government in the provinces between two authorities, one amenable to Parliament and one amenable to an Indian electorate; and that future progress shall be by the transfer of further portions of the field of administration from one authority to the other, after regular survey of existing conditions by a commission periodically appointed by Parliament. These are the essentials of the scheme to which the name "dyarchy" has come to be applied by usage. We see no real objection to the term, which has, we believe, the sanction of eminent historians, and which, as you will gather from the enclosures to this despatch, has by now securely established itself in India's political diction.

Division accepted in principle.

12. It follows from our interpretation of the announcement of August, 1917, that we are at one with the authors of the Report in the imperative necessity for some division of the field of government. Undivided government means the common accountability of all its members for all its policy; and there is nothing for which the electorate can fasten the specific responsibility on to their own representatives. But the bifurcation of the government which is proposed in the Report has encountered so much criticism that we feel bound to examine it from both a theoretical and a practical point of view. Our first line of argument, therefore, will be to bring it into relation with first principles. The main objection running through all the criticisms is one and the same, *viz.*, that the work of government is of its nature impartible. It is easy to overstate the argument, for in practice the functions of government can be and often are partitioned, as they are between local bodies and between departments. Nevertheless it is true that a common thread runs through all the functions of government; that no function of government acts *in vacuo* and that each reacts on some other function: that the various functions cannot act at all unless there is some one authority to harmonize them, and that there cannot possibly be two independent governments in the same State. All that these truths imply, however, is that the two sets of functions can only be exercised properly by the two different authorities if there is a paramount governmental power over them both:—in this case Parliament and its agent, the Government of India. From this follows of course the further consequence that, while dualism lasts, the part of the government which is responsible to the electorate cannot attain complete responsibility; but

in this there is no condemnation of the principle, inasmuch as dualism is avowedly a device for a period of transition and disappears as soon as fitness for full responsibility is established. Our first conclusion, therefore, is that there is no theoretical difficulty about a division of powers provided that the state of things which results from it is regulated and safeguarded by Parliament.

13. In making a division of powers we have a choice of two methods.

Alternative methods of division.

It is possible to take a particular group of functions and hand it over to the new authority; this we may call the vertical method of division. It is also possible to entrust the new authority with subordinate powers in all functions; this we may call the horizontal method of division. The Report adopts the former plan. Some of our critics press the latter, and would prefer to give a certain measure of power in the whole field of government rather than a larger measure in some selected areas. In urging this method upon us, those who favour it undoubtedly aim at a unified government, and overlook the dualism that is inherent in their own detailed proposals. Leaving them, however, to this confusion of thought, we have to see for ourselves whether the vertical or the horizontal method is theoretically the better. If we apply the tests suggested in paragraph 7 above, it seems to us that the scale turns definitely in favour of the former. It is the more educative, though it may be at the outset the more onerous; it certainly lends itself by far the more readily to ordered progress; and though friction is unavoidable in either method, it should be less when departments are divided off than when both authorities are at work in the same department. On exclusively theoretical considerations accordingly our conclusion is against the horizontal division of functions.

Unified government.

14. Such purely abstract reasoning will not take us far. Can we conceive a horizontal division of the work of a provincial government which would in practice give us unity and not dualism? No concrete proposals which we have received answer this question, and we know of no existing form of polity which would answer it, with the doubtful exception of the Egyptian system of Advisers. We are driven therefore to draw an imaginary picture. Very briefly, it would be a picture of a Governor in Council with complete legislative powers of his own, delegating authority in every branch of government to a subordinate executive with a subordinate legislature. The ordinary executive work of government would be done by ministers, except for any specified class of business which the Governor in Council decided to keep in his own hands. All proceedings of ministers would be submitted to the Governor in Council, who could veto or alter any order or issue any orders which he considered that ministers had wrongly failed to make. There would also be provisions for appeals from orders of ministers to the Governor in Council. The advance from this state of affairs to real responsible government would proceed by means of the gradual withdrawal of the Governor in Council from interference, from the passing of ordinances, from the issuing of orders over ministers' heads, from altering the financial or legislative proceedings of the legislature, and so

Typical unified government.

on. The official government would exercise this growing self-restraint in proportion as it found the ministers waxing wiser in administrative experience and responding to the increasing political intelligence of the electors. The time would come when the Governor in Council would disappear, on some future statutory commission being satisfied that ministers were competent to carry on the whole work of government.

Criticism of such a plan.

15. Though we have sketched out a possible type of a government which would comply literally with the announcement of August, 1917, we frankly regard it as wholly impracticable in present circumstances. It has theoretical merits as a school of systematic training in administration; but these would be swept away by the intolerable friction and struggles for power which it would provoke. It would not be accepted by any of the Indian political leaders, and it would start with an impossible handicap of opposition. It may seem then that our picture is superfluous: but our purpose in drawing it has been to bring out clearly the contrast between the type of unified government which complies with the announcement, and the *quasi*-unified government which we have been strongly urged to prefer to the dualistic scheme of the Report. The type of government which we have described, whatever its drawbacks, at least fulfils the requirement, on which so much stress is laid, that the major executive shall be capable of acting as one. The protagonists of unified government seem to us in their concrete proposals to have failed to secure this, their own main desideratum.

Conference with local Governments.

16. We turn now to an examination of the proposals which have been pressed upon us as intended to secure a unified government, in substitution for the scheme in the Report. They are primarily contained in the opinions of the local Governments; for, as you will see from the collection of their letters, all the provinces except two declared for a unified system. On receipt of provincial governments' replies the Government of India met all Heads of provinces, except the Governors of Madras and Bombay, in personal conference at Delhi during the week beginning January 13, 1919. Lord Pentland had already declared himself against a dual government; and it was of importance that he should be present in Madras to receive Lord Southborough's committees. Sir George Lloyd was unfortunately prevented from attending the conference by industrial disturbances in Bombay city. His Excellency the Viceroy in opening the conference drew attention to the destructive criticism which local Governments had furnished and invited the Heads of provinces who were present to put forward constructive proposals which would be free from the objections they took to dyarchy. His Excellency's statement of the position is attached to this despatch. After preliminary discussion under the chairmanship of Lord Ronaldshay, five out of the seven Heads of provinces who were present, namely, the Lieutenant-Governors of the Punjab, the United Provinces and Burma and the Chief Commissioners of the Central Provinces and Assam agreed upon certain proposals which are formulated in the minute of January 15, 1919, which we enclose. The Governor of Bengal and the Lieutenant-Governor of Bihar and Orissa for reasons given in their separate minute of January 16, also enclosed, dissent from the conclusions of the majority of their colleagues.

17. We have now to lay before you our views upon these important documents. The minute of the majority was framed after mutual consultation; and saving in so far as it was drafted without the assistance ordinarily available from secretariats and under unavoidable pressure of time, it may be read in modification of the official letters from the five local Governments for which the signatories are responsible. There is no need for us to lay stress upon the authority attaching to the joint opinion of the five experienced administrators who have signed the majority minute. They have, as they explain, approached these difficult questions of constitutional reconstruction far less from the point of view of political theory than with an eye to what they judge to be the practical requirements of the situation. They point out with some force that the novelty of the proposals in the Report has aroused apprehensions. They dwell on the prospect of discord and friction. They emphasise the inexperience of the electorate. To use their own words, they have themselves sought to find a scheme which is as close as possible to the scheme published in the Report but "which eliminates those features of dual government that seem to us to imperil the success of its practical working in existing conditions."

Majority minute by Heads of provinces.

18. The typical government which they propose to constitute consists of a Governor with a council composed of an equal number of official and non-official members. The latter would be selected by the Governor from among the elected (but in the Punjab from both the elected and the nominated) members of the legislature. There would be no division of functions of the government into two categories, and the Governor would be free to allot at his discretion any portfolio to any member of his council. The idea is that the non-official members of the executive would be chosen by the Governor from persons representing a substantial body of opinion in the legislative council, in which way they might be expected to be in touch with that body and to be influenced by its opinion. On the other hand, inasmuch as they would be appointed by the Governor as councillors and not as ministers, they would be responsible through the Governor to the Secretary of State. In this way it is contended that a unitary government would be secured, which, though responsible to the Secretary of State, would be largely accountable in practice to the legislature.

Unified government proposed therein.

19. The legislature in the scheme proposed would have a substantial elected majority, and for the purpose of enabling the government to secure the legislation which it wants, the majority minute accepts the procedure by certificate and grand committee proposed in the Report, with certain modifications designed to give the executive a freer hand. Sir Reginald Craddock in this respect prefers the proposals made in his own minute of November 29, 1918. In the matter of supply the majority minute proposes that the legislature should vote the budget, but that the Governor in Council should have power to restore the original provision in circumstances covered by the terms of section 50 of the Government of India Act, 1915. The five signatories claim that their scheme provides in the various ways that they enumerate for enlarging the sphere of responsibility, and that it can be relied on to lead up gradually to a system of full responsible government in the provinces.

Its suggested working.

20. Our criticisms of these proposals are of two kinds. The first and major criticism has reference to the answer which the minute returns to the first question propounded by His Excellency the Viceroy. The signatories acknowledge that their proposals do not enable responsibility for any act of actual government to be fixed on any member of the executive; but they go on to add that the announcement of August 20, 1917, does not require such a result, and that such a result is not attained in the scheme of the Report. They refer to the restrictions upon the responsibility of ministers contemplated in paras. 219, 221 and 240. Now, to take first this latter point, we recognise, as we have already said, that the unique circumstances of our scheme render it impossible that ministers should, during the period of transition, enjoy the same measure or character of responsibility as would be theirs under a genuine parliamentary system. None the less the fact that we cannot hope to attain complete success at the outset seems to us no reason for not shaping our course definitely in the desired direction; and this in our opinion is what the Report does. The authors of the minute, however, contend that the terms in which His Majesty's Government declared their policy in August 1917 does not require us to provide from the outset for a form of responsibility comparable to that of a minister of the Crown. They lay stress on the fact that in the announcement made in parliament prominence was given to the increasing association of Indians in every branch of the administration; and they argue that the true path of progress lies in associating Indians with the existing type of government rather than in altering that type by dividing the government in order to introduce responsibility. It seems to us that the five signatories attach to the term "association" a significance which it was not intended to bear; for to our minds it should be regarded as a means rather than an end. However this be, we entirely dissociate ourselves from their interpretation of the intentions of His Majesty's Government; we regard the announcement of policy in August 1917 as clearly contemplating some measure of responsibility for administrative acts as a feature of every stage in the progress towards full responsible government. It has been so interpreted by Indian opinion; and any other construction would be keenly contested.

Our criticisms—
(1) of principle.

21. The remaining objections which we have to take to the scheme set out in the minute are concerned with the prospects of its successful working in practice. In the first place we cannot admit that real unity has been attained in the executive. We feel that members of the executive appointed from the legislature are bound to feel a real obligation towards that body; that indeed is the reason for their appointment and they would not serve their intended purpose unless they felt such obligation. But every bond that attaches them to the legislature, which can be trusted to strengthen the ties by every means open to it, tends to pull them apart from their official colleagues: and once the stage is reached in which the non-official members of the Government feel their obligations to the legislature stronger than their obligations to their official colleagues, it is plain that a dualism will have in fact established itself. In this respect we hold that the scheme does respond to its own criterion, inasmuch as it tacitly admits a dualism

(2) of working—
(a) Not really unified government.

which it would be better to recognize from the beginning. It will be dualism of a particularly unfortunate type; for the two halves of the executive will have no separate spheres of work, and will be liable to come into conflict over the whole range of their duties. There is a specious air of coalition about the proposals; but it would be a coalition without any of the forces which keep a coalition together, a forced and artificial union between two parties with totally different mandates, which could lead only to an impasse. The scheme thus fails to respond to its own criterion, as dualism is inherent in it, and in a form which to our thinking must in time reduce the executive to impotence.

(b) Excessive dependence on certificate power.

22. In the second place we cannot regard as satisfactory an arrangement which leaves the Governor in Council entirely dependent upon the use of his powers of certification for the purpose of obtaining the legislation and the supplies which he thinks necessary. Except for the certificate power the executive will be at the mercy of the legislature and in the position condemned in Chap. VII of the Report. In the absence of any differentiation of subjects, and of any special facilities for obtaining supply for those subjects which are the special care of the official part of the executive, we should not be prepared to rely upon the certificate power as the sole effective instrument of government.

(c) Progress not secured.

23. Lastly, we cannot agree that the plan propounded in the majority minute presents a prospect of the continuous and ordered progress towards responsible government which is postulated in the announcement of August 1917. The means of advance which it provides are explained in para. 10 of the minute. Two of them are similar to those suggested in para. 14 above and, whatever they are worth, are at all events open to the criticism that they do not readily admit of observation or assessment. But we cannot agree that one of the stages of safe and ordered advance would be the increase of the number of councillors chosen from the legislature. So long as the executive acted as one government and decided matters, saving the Governor's over-riding powers, by majority vote, such increase would mean the sudden transfer of executive power to the members chosen from the legislature. Our judgment upon the majority minute may therefore be summed up by saying that we regard it in the first place as failing to lay any measure of definable responsibility for any act of government upon the representatives of the electorate: we therefore hold that it does not comply with the policy upon which the Home Government have decided. In the second place, it fails to fulfil what its authors themselves present as the paramount requirement of an undivided government, a unity which can, to our thinking, be secured only by a common allegiance and a common policy. In the third place, it affords no prospect of successful working without giving rise to such conflict and bitterness of feeling as may produce a deadlock; and in the fourth place, the scheme cannot progress in any direction except by one leap into full responsible government.

Minority minute.

24. For further pertinent criticism on these views, we have only to turn to the minute prepared by Lord Ronaldshay and Sir Edward Gait. They object to the scheme of their five colleagues for several weighty reasons. Its authors, they say, "seek to avoid making any part of the executive responsible

to the legislature, and since they confer upon the legislature the power of refusing supply, they are driven back upon the expedient of authorizing the Governor in Council to reverse decisions of the legislature." If this expedient is put into constant use, the apparent liberality of the scheme vanishes; if it is only rarely employed, the whole executive would in practice become amenable to the legislature, without being removable by it. The minority therefore accept the scheme of the Report as "giving to the ministers, within very wide limits, full control over the transferred subjects and thereby enabling them to combine power with responsibility." We need hardly say that the minority view has our entire concurrence.

Dualised Government.

Dualism definitely accepted.

25. We return then to our proposition that it is only by a division of functions that we can give effect to policy which requires some elements of responsibility, however imperfect at the outset the conditions of India may make it, to be introduced into the executive. Without bifurcation it is impossible to devise a Government which will remain partly responsible to the Secretary of State and Parliament and partly to the elective representatives of the pepole in India; and we are satisfied that the only practicable form of bifurcation is what we have called the vertical division of functions. We recognise the novelty of the proposal and the apprehensions which it necessarily must arouse in conservative minds. We appreciate the disadvantages of friction and difficulty which have been brought home to us in local Governments' letters. We reply, however, that the position is new in the experience of the world and that we can find no means whatever of fulfilling the charge laid upon us, as we understand it, otherwise than by dualising the executive. Risks and difficulties there undoubtedly are as there must be in any period of transition; but in no other scheme that has been devised would they be fewer, and in no other scheme is the path towards our goal so clear. As we shall attempt to show in our detailed examination of the scheme, the risks and difficulties can be materially diminished; but those that remain have to be faced. If we were to halt now until we find the perfect way—if indeed there is any perfect way—we should lose the whole impetus of advance and embitter those whose hearts are set upon it. Let us provide to the best of our ability against the dangers which we foresee, and then go forward with courage in the confidence that experience and good feeling will overcome them.

Its limitations need examination.

26. Before proceeding with our suggestions for the improvement of the scheme in detail we propose to set before you some broad considerations on which, it appears to us, must depend the decision as to the degree of bifurcation which can be wisely and safely admitted in a scheme of Government that is to be capable of working in practice. Much of the criticism which the report has attracted is due, we think, to the interplay of two principles within it, and to some uncertainty in the minds of its readers regarding their re-actions on each other. One of the principles is division in order to get a clear definition of the several responsibilities of the two parts of the Government. The other

is union, in order to get association in aims and policy between the two parts of the Government. Critics of the scheme describe it as failing to secure the first, and as attaining the second only by artificial and dangerous assumptions. We are prepared to meet all such criticisms: but we take them as conveying a caution against an attempt to combine two distinct principles in such a way as to disguise or hamper the operation of either. Dealing as we are with wholly new conditions, we feel that the best hope of arriving at a right solution which can be defended on sound grounds is in the first place to examine dualism somewhat more fully in the abstract, and, if possible, to ascertain what are its inherent limitations.

Typically dual government.

27. A typical dual Government would, we conceive, have two separate legislatures and two separate executives. Each authority would make its own laws, control its own finance, frame its own budget, impose its own taxation, and raise its own loans. Each would have its own separate staff for the administration of the subjects allotted to it and its own methods of recruitment, pay and pension. The two authorities would in fact have clearly defined spheres of their own, and would work exclusively within them. But in as much as there cannot be two independent governments in the same State it follows that both authorities must be under the ultimate control of some superior; or, to translate the picture into constitutional terms, there would be on the one hand the Governor in Council and on the other the Governor with his ministers, while over them would be the Government of India, the Secretary of State and Parliament with ultimate controlling power to keep the two authorities from acting entirely independently of, and conceivably in opposition to, each other.

Tested by suggested criteria.

28. To such a typical system it is merely necessary to apply the tests of good government which we suggested in para. 7 to see at once the necessity on practical grounds of modifying it in certain directions. To two out of our four tests indeed pure dualism responds admirably: it is clearly educative and it clearly admits of progression. But in its cost and complexity, and particularly in respect of its separate staffs, it would impose an intolerable burden on the people. And, as the Report observes (para. 246), the attempted separation of the orbits of the two authorities would deprive both of chances of association and consultation which are likely to be helpful; while without such opportunities there would be nothing to mitigate the shock of the collisions when their orbits meet. Dualism therefore requires such qualification as will eliminate avoidable elements of hardship, while carefully preserving the educative value which consists in investing each of the two authorities with clearly defined duties and responsibilities. That association is valuable we recognise, but we look on it as a means rather than an end. It will help in the educative process by placing at the disposal of ministers the best trained administrative talent; it will go far also to reduce friction. But above all things we must strive to avoid laying needless burdens on the people, until such time as they are able to enforce their own wishes and to defend themselves against the inexperience and possibly the self interest of their nominees.

29. The precise application of these principles will be manifest when we deal with the details of the Report. But it will be helpful to carry them first briefly one stage further in relation to each of the main elements in the government. As regards the legislature both the Governor in Council and ministers clearly must have means of obtaining both the laws and the supply which they require for their executive duties: there ought, as the Report says in para. 215, to be for each half of the government, "some form of executive body with a legislative organ in harmony with it"; and to this extent the two organizations should be distinct, with distinct methods of response to the needs of the two executives. But the public interest demands that there shall be no conflict of jurisdiction and no clash of laws. There must be, therefore, some authority to decide between them. Once this is provided, there is advantage in allowing the two branches of the legislature to work as far as possible in concert in cases where no particular conflict of interest or opinion arises.

Dualism—
(1) in legislature.

30. As regards the executive, the postulate that the system adopted shall be as far as possible educative requires that there shall be no doubt which of the two authorities settles a policy and carries it out and is responsible for it. Once that requirement is secured, such association as is compatible with it is a gain. But consultation should not be allowed to obscure the source of any single act of administration nor to diminish the clear responsibility of one or the other authority for it. There can be no such thing as majority decisions by the two halves acting together. At the same time the interests of the people require that there must be a power of higher control capable of intervening to prevent grave errors by either authority and to decide jurisdiction in cases of doubt or dispute.

(2) in executive.

31. The burden and complexity of pure dualism is seen most clearly in respect of the administration in detail. We cannot in justice to the people saddle them with two different public services, differently recruited, owing different allegiance and carrying out different policies. This aspect of the case is one in which the merits of defined responsibility must bow before the greater needs of protecting the people. The ministers must therefore, as we shall show hereafter, be required to take over the existing public services and to treat them on approximately the present lines.

(3) in administration.

32. Pure separatism on the financial side seems to us also an impossibility if the public interests are to be safeguarded. If the two authorities are to be free to discharge their responsibilities with reasonable liberty and avoidance of friction they should have separate resources, separate budgets, separate balances and to an extent, which we discuss hereafter, separate powers of borrowing and taxation. But in the last resort other considerations come in; and we think that to deprive ministers of official assistance in developing revenue and in controlling expenditure, besides being unfair to them, would be to court misfortune and to sacrifice the taxpayer, just as we should regret any arrangement which would leave the official half of the government without the criti and suggestions of their non-official colleagues.

(4) in finance.

Summary of the arguments.

33. We are now in a position to sum up the conclusions which we propose to apply to the detailed proposals of the Report and to the criticisms which they have encountered. We started with the postulate that a share in the work of government was to be given to non-officials who are the chosen representatives of the people. But the electorate cannot at the outset be expected to know how to hold its representatives to account, and therefore the power of ministers, because it will not really be derived from the people, cannot at the outset be complete. They must be amenable to control; in a word the whole problem is to reconcile their control with education through actual practice in the art of government. We concluded that a partition of powers is inevitable, although the process is attended by obvious drawbacks. We rejected the idea of such horizontal division of powers as would yield a truly unified executive. We rejected also the *quasi*-unified government proposed by the five Heads of provinces because it would not lead us where we wish to go. We were thus led directly to the vertical method of division which yields a dual government. We found on examination that pure dualism would be burdensome by reason of divided councils and the results of inexperience. What we seek, therefore, is such modifications of dualism as will introduce the necessary elasticity and get rid of its worst inconveniences without confusing or disguising the responsibilities of the two parts of the government. From this standpoint we now address ourselves to an examination of the details of the Report.

The provincial governments.

Questions of demarcation reserved.

34. We reserve for further consideration in connexion with the report of Lord Southborough's committee the difficult questions raised in paras. 212 and 213 of the Report as to the demarcation of the sphere of provincial business, whether in its legislative or administrative aspect. Our next despatch will discuss the principles and details of such demarcation, but it appears to us impossible to consider these till we have settled the structure and working of the provincial executives, and with this question we now deal.

Appointment of Governors.

35. The Report proposes to set up a single type of government for common application to the three presidencies of Madras, Bombay and Bengal, the three lieutenant-governorships of the United Provinces, Punjab and Bihar and Orissa and the two chief commissionerships of the Central Provinces. Assam and Burma, on account of its peculiar circumstances, was left over for further consideration. The Lieutenant-Governor has informed us that he expects to be in a position to lay proposals before us shortly. We are doubtful about the application of the proposals in the Report to Assam, which exclusive of the hill tracts inhabited by primitive peoples seems to us too small an area to carry so large a superstructure. We are examining separately the question of the arrangements to be made for it. The Chief Commissioner of the Central Provinces has also urged that there should be a preliminary period of training before the scheme of the Report is brought into operation in that province. We consider, however, that there are no

reasons for discriminating between the Central Provinces and the other major provinces in this respect. We therefore accept the proposition that in all the provinces except Burma and Assam the Head of the province should be known as Governor. The Report says (para. 218) "this common designation would not imply any equality of emoluments or status, both of which would continue to be regulated by the existing distinctions which seem to us generally suitable." As regards the appointment of Governors, however, it is clear from another passage (para. 161) that, although there is no idea of excluding the members of a permanent service from appointment to governorships, the intention is to assimilate the method of appointment of all heads of provinces to that of the presidency Governors. In any case it follows from the alteration of the title of the heads of provinces other than presidencies that the provisions of section 54 (2) of the existing Act which require the incumbent of what is now a lieutenant-governorship to have served the Crown for at least ten years in India will become obsolete. We understand that no immediate change is intended in the existing practice by which the charge of the five provinces in question has always been held by men with long official experience in India; and we think that at all events for some years to come no such change is possible. While some of us would prefer to see the present statutory prescription retained, the majority of us agree to its abandonment on the understanding which we have just stated. We take this opportunity to note that all the three presidency Governments have called attention to the heavy personal burdens which the new order of things will impose upon the Governor; and we lay stress upon the need for securing for such offices alike the best talent which the services can furnish, and in the case of appointments from outside the services men of the highest qualities and ripest experience.

Their pay and status.

36. In respect of the status and pay of Governors two local Governments have urged that no distinction should henceforth be made. On financial grounds alone we must resist this suggestion. The new changes in the government will in any case lay heavy burdens on the taxpayer and there is no need to swell them by increasing the pay of heads of provinces who are already well paid. Moreover, if equality of pay and status were once admitted, it would be difficult to resist subsequent demands for increased display and ceremonial and sumptuary allowances. At the same time it is evidently well to take this opportunity of raising the pay of the two Chief Commissioners above the level of that of members of presidency councils. Accordingly we recommend that while the pay of the Governors of the three presidencies should remain at its present figure of Rs. 10,000 and that of the Governors of the United Provinces, the Punjab and Bihar and Orissa at its present level of Rs. 8,333⅓, the pay of the Governor of the Central Provinces should be raised from Rs. 5,166⅔ to Rs. 6,000 and that of the Governor of Assam (assuming for the moment that the head of that province is so designated) from Rs. 4,800 to Rs. 5,500. The further suggestion has been made that all Governors should have the right of corresponding direct with the Secretary of State on matters in regard to which the presidency Governors enjoy that traditional privilege. We see no immediate necessity for this.

37. The composition of the rest of the executive presents difficulties. The sclution suggested in the Report was to institute a council in each province of one official and one non-official; to appoint for the administration of the transferred subjects one or more ministers according as the volume of work required; and to provide against the preponderance of Indian opinion which would occur in the joint deliberations of both halves of the government by the device of allowing the Governor to appoint one or two additional members of his government, without portfolios or votes, for the purpose of consultation and advice. No detail of the scheme has drawn more criticism than this. No local Government is really in favour of the proposed *adlati*; and, though probably for different reasons, non-official opinion is equally adverse. It has been pointed out to us that the officers in question would be placed in a very equivocal position: they would have no right of initiative, no defined duties and no vote: their sole responsibility would be to give advice, which the Governor could to some extent obtain from them in their substantive capacity; and their status as *quasi*-equals within the council room and subordinates outside it involves peculiar difficulties. We advise, therefore, that the proposal be abandoned.

Composition of executive: *adlati* dropped.

38. There remains the difficulty, on which local Governments justly lay stress, of providing for the varying requirements of the different provinces. In view of our decision in the last paragraph we feel that it will certainly be necessary to find other means of ensuring that experience and knowledge of the official system have sufficient voice in the counsels of government. Accordingly for the three presidencies we propose that the executive council shall continue to be constituted as at present, in spite of the fact that some departments will be entrusted to ministers. In the remaining provinces we consider that, so long as no change is made in the practice of appointing a Governor with official experience of India, a council of two members, one official and one Indian, should suffice. If, contrary to our intentions, any change in practice is made, then we think that the strength of the council should be brought up to the present presidency level. No one can say how the new institutions will add to the labours of the executive. It is clear that the sessions of the legislature will be longer: that far more time will be consumed in consultations and committees: and that it will no longer be possible for the Governor, who will be the keystone of the new provincial system, to retain any portfolio in his own hands. We are convinced, therefore, that if the new complex administration of the future is to find time to adjust itself, a far more generous margin of time must be allowed than has been the case in the past. In this opinion we are supported by the letter from the Madras Government. We are not, however, all agreed in this recommendation. Sir Sankaran Nair would abolish the *adlati* and sees no reasons to replace them and Sir George Lowndes would replace them only by a personal secretary of high standing on whom the Governor should rely for advice.

Council to be strengthened if Governor lacks Indian experience.

39. We agree that the choice of an Indian member of the executive council should not be restricted to the members, elected or otherwise, of the legislature. Indeed,

Qualifications for Council.

if an elected member were appointed to an executive councillorship, he should be required to resign his seat and not be eligible for re-election, for otherwise his position would approximate too nearly to that of a minister. Para. 218 of the Report which deals with the Governor in Council does not refer specifically to the statutory qualifications for a councillorship which are laid down in section 47 (2) of the Government of India Act, 1915. Two out of the maximum number of four councillors must at the time of their appointment have had at least twelve years' service under the Crown in India. But the statement that "one of the two executive councillors would in practice be a European qualified by long official experience" has been construed as implying an intention of amending the statute. The reasons for continuing to appoint experienced officials to such posts are stated in para. 161 of the Report; and we think they have great force. But inasmuch as no alteration of practice is intended, we question the expediency of making a change of form, which will be open to misconstruction both by Indian opinion and the services. The point is not one on which we are unanimous. The majority of us advise that the statutory qualification of twelve years' service in India be retained for one member of each of the provincial councils. If that is done, we advise that one seat be similarly reserved by statute for an Indian. We suggest that the pay of executive councillors should be fixed at sums which we shall insert in the schedule of the draft Bill.

Appointment of ministers.

40. We come to the question of the appointment of ministers. The Report suggests (para. 218) that they should be appointed by the Governor from the elective members of the legislature, and for the life-time of that body; and that if re-elected they should be eligible for re-appointment as ministers. They would hold office not at the will of the legislature but at that of their constituents. Para. 260 adds that it should be open to the legislature after five years' time to place their salaries on the estimates, thereby converting them into parliamentary ministers, or for the Government of India, as a condition of a further transfer of subjects or otherwise, to require that their salaries should be so treated. We do not think that the intermediate position (due, we believe, to the apprehensions expressed by Indian opinion as to the prospect of having to assume a fuller measure of responsibility) in which it is proposed at the outset to place the representative portion of the executive can on examination be sustained. The idea of amenability to constituents rather than to the legislature strikes us as strange to English political theory, and in view of the inexperience of the electorate compared with the legislature, and also of its communal character, as most unlikely to bear much fruit in practice. Apart from this, however, we agree with those local Governments who have pointed out that, whatever the initial position of ministers may be in theory, it cannot in practice but be one of amenability to the legislature which has power to grant or to withhold their supply. It is true that it is very hard to foresee how communalism in electorates and legislatures will deflect their working in India from the ways familiar to English experience; but we feel bound at all events to proceed on the assumption that a minister who finds himself at variance with the views of those who are in a position to control his legislation and his supply and to pass votes of censure

upon his administration will recognise that he must make way for a more acceptable successor. That being so, we think that ministers must be assumed from the outset to be amenable to the legislature. It follows that they would not be appointed for the life-time of the legislative council but at pleasure; they would (in the absence of definite reasons to the contrary) be removable by an adverse vote of the legislative council; and, following the accepted practice elsewhere, the Governor would have power to dismiss them if he felt that the situation required such a course.

Their number and pay.

41. While the members of the executive council would be appointed as now by His Majesty by warrant under the Royal Sign Manual, ministers, being the advisers of the Governor, would necessarily be appointed by the Governor. The question of their pay presents some difficulty. There is no real reason to prescribe for ministers the scale of salaries fixed for members of council. We feel, however, that if we were to ask you to fix beforehand for ministers a lower rate of pay than that sanctioned for councillorships, such a treatment of the situation, however well justified by practical considerations, would be misconstrued in India. We see, therefore, no alternative but to suggest that the number of ministers and their pay should be fixed by the Governor, after consultation with the prospective minister or ministers when they first take office, and placed upon the transferred estimates. We have no doubt that the Governor will give due regard to the considerations of the burden of work, the expenses of the position and so forth, which have always been accepted as relevant to the determination of the salaries to be attached to official posts. We do not suggest that the first ministers should offer themselves for re-election on taking office. Indeed, we question the expediency of perpetuating in India this feature of parliamentary tradition at all, and we would provide that ministers' posts should not be treated as such an office of profit under the Crown as disqualifies a member of the legislature from retaining his seat. There is one point to notice. In so far as some of the nominated members of the legislature will sit as representatives of interests for which no constituency can be found, it may be argued that they should not be penalised by ineligibility for the office of minister. Moreover, as we show later, it will be necessary to provide for the contingency of of no ministers being temporarily forthcoming from among elective members. Both these reasons might be urged in favour of giving the Governor some discretionary power of appointing ministers from among the nominated non-official members. But Indian opinion attaches special importance to the representative character of ministers; and it must be admitted that their appointment from the nominated members might be open to abuse. We think therefore that the exclusion of the nominated members from ministerial office must be accepted though Sir William Vincent would prefer to see the matter left open. He thinks that under the new proposals a minister, whether he is an elected or a nominated member, will be equally amenable to the legislative council; and it may not infrequently happen that a nominated member would be the best qualified person for appointment to the office.

42. You will have gathered from what we have already said that we accept the proposed division of the functions of the provincial government into reserved and transferred subjects. We do not in the present despatch go into this question in further detail because we can only deal with it when we have considered the report of Lord Southborough's committee. We will merely assume, therefore, that such division has been made. We shall attempt later to present you with as faithful a picture as we can of the way in which we conceive that the new system will work. We shall examine how the Governor in Council will administer the reserved subjects and the Governor and ministers the transferred subjects: and also how the two portions of the government will work together. As we do so, we shall take up the various objections levelled against details of the scheme by its critics, and shall show what can be said in reply to them, or shall propose changes where they seem to us necessary. But in order to make our sketch intelligible, we must first deal with three of the functions or instruments of government which both halves of the executive must have in common. We refer to (1) the services which carry out the orders of the executive, (2) the provision of financial supply, and (3) the machinery for equipping the executive with whatever new legal powers it needs. To this extent we shall depart somewhat from the sequence adopted in the Report.

Working of the new Governments: three common elements.

The public services.

43. If we deal at some length with the question of the services we feel sure that no ungenerous construction will be placed upon the prominence which we give them. There is here no question of opposing vested interests to the cause of constitutional change. There is the very serious question of conserving for India, during a difficult period of transition, the only agency likely to be available for affording the necessary help and guidance. We owe it not to Parliament alone, but to the people of India and the services as well, to explain as particularly as we can the steps by which we intend that the great change in their position will be carried out. The description of the Indian Civil Service given in paragraph 126 of the Report is to a greater or lesser extent true of most of the public services. Most of them have assisted to shape policy as well as to execute it. The development of responsible government in India cannot but have the effect of relegating them gradually to the position of executants or advisers. There is no avoiding this fact and no wisdom in shrinking from its consequences. We put out of account for the moment the necessity for improving pay and pensions, which in our opinion is clearly established apart from any question of change in duties or status. But the new role of the permanent official will not make an Indian career so attractive to some Englishmen as it has been in the past, though others will be drawn to it by sympathy with the new ideal. We may hope that better acquaintance on the Indians' part with the difficulties of administration may be reckoned on to induce more sympathy with the attitude of the English official, and readier recognition of his best qualities in times of stress and emergency and of the need for his assistance. But we cannot leave the matter on an

General considerations.

indefinite footing; and accepting as we do the cardinal necessity in the interests of India of conserving the services until such time as the country can replace them by some substitute approximately as good, we have carefully examined the question of their disposition under the new scheme of things.

Need for legislation.

44. The Report recognizes alike that it would be unfair to untrained ministers to require them to organize their own departments anew (paragraph 259) and that His Majesty's Government owe it to the services, whom they have appointed or whose appointment they have authorised, to see that they are properly supported and protected (paragraph 325). We heartily endorse both propositions. In considering how they are to be translated into practice, we are led at once to certain preliminary considerations. Hitherto the regulation of the services has been to a great extent uncodified or codified only by executive orders. The duty of obedience by the subordinate officer and of protection by the superior officer was unwritten law; there was a homogeneity of interests and traditions between those who laid down public policy and those who executed it, which had the effect of leaving to a mutual understanding several matters that in other countries are more formally defined. The position will be altered now, with the public services coming in an increasing measure under ministers' control. It will be only fair both to ministers and to public servants that they should both be helped by a clear regulation of their formal relations to each other. Moreover there ought not to be one law for public servants working under ministers, and another for those who remain under the official part of the government. So far as may be, a public servant should find himself under a similar regime in whatever branch of the administration he may serve. So also the claims of ministers upon the service and their duties towards it should be closely comparable with those of the official members of the government. The whole machinery ought to be arranged so that the transfer of a department from one part of the government to the other should cause the least possible dislocation or change in the conditions of their service among the permanent officials employed in the department. We consider therefore that no time should be lost in reducing to statutory form the main rights and duties of the services in India, in so far as they are not already prescribed by law or rule. As the basis of the necessary law and rules we commend to your consideration the propositions which follow.

The All-India services.

45. It would prolong this despatch unduly if we were to set forth at full length the considerations upon which our proposals are based; but for our present purpose of depicting the new institutions in working it is necessary at least to outline the arrangements which we recommend for the future regulation of the services, premising these with the remark that we have not yet received the local Governments' opinions upon them. In the first place we propose that the services should be divided into three classes,—all-India, provincial and subordinate. The designation of each of these will be a sufficient indication for present purposes of their composition; nor need we now pursue the subsidiary questions arising in connexion with such classification. Our idea is that the all-India services should be maintained as a model to the rest; and with the

object of impressing the seal of the existing system both on the Indian as well as the European elements in them, we consider that recruitment, whether in England or in India, should be according to the methods laid down by the Secretary of State, and that all persons recruited should be appointed by that authority. For similar reasons we advise that the Secretary of State should entirely control the pay of such services and sanction all new appointments to them that are not temporary. As regards allowances, we think that the Secretary of State should be invited to lay down certain guiding principles which the local Governments, subject only to the control of the audit officers, should be left to administer. We suggest that the regulations for leave and foreign service should be treated in a similar manner. Pensions are for the most part paid in England and are included in the Government of India budget; but we bear in mind the possibility that the Indian legislature may acquire more control over the Indian budget, or that with a view to a more equable distribution of provincial burdens the pensions earned in a province may be made a provincial charge. A change in either respect would certainly affect confidence; and there is therefore in our opinion a strong case for securing the pensions of the services beyond the possibility of alteration by any authority in India. We think that the age of superannuation and the scale and conditions of pension for all-India services should be fixed, if not in the schedules, at least by statutory orders of the Secretary of State made under the new Government of India Act.

No option as to service under ministers.

46. These appear to be all the matters connected with the all-India services for which it is possible to make provision by rule. In all cases where we have spoken of the local Government, the authority will be that of the Governor in Council in the case of reserved departments, and that of the Governor acting with ministers in the case of transferred services There remain, however, to be considered the every-day matters of administration for which no rules can provide and for which some provision is yet needed. We recognise that service under the new scheme cannot be equally congenial to all officers. We have considered whether officers in a transferred department should be given an option of being transferred with their department or leaving it; but it seems to us inadvisable to make any general offer of a proportionate pension to men who are transferred, and of course still less to the men in the reserved departments. We quite recognise that in extreme cases, in so far as present incumbents are concerned, such steps may eventually be necessary: but to give any formal option of serving or declining to serve under ministers at the outset seems to us unwise. We prefer to abide by the ordinary rules that a public servant is required to fulfil any duty legally imposed upon him.

Possible difficulties.

47. We have, however, as practical men to face the possible difficulties that may arise and to consider how these can be mitigated, and if they pass beyond mitigation, how they can be settled. We are not dealing with imaginary problems; the press and the platform have given us warnings of antagonism to the public services, and whether this definitely declares itself or not, the new situation will be a delicate one. Ministers will be taking over departments staffed by public servants, European and Indian alike, with no personal experience of popular government, who may tend

to be impatient of new methods and unappreciative of changes in policy. Ministers may be apprehensive of obstruction and intolerant of the rigidity of official methods. We recognise that it is possible that, in the exercise of their responsibility and from the best of motives, ministers may adopt a policy which the service feels that it cannot consistently with its conscience and self-respect carry out. This is perhaps more likely to occur in the technical services where professional feelings may be aroused by methods which professional knowledge condemns. Ministers again may naturally prefer their own agents and be disposed to treat lightly vested claims to important or desirable appointments. Officers who personally render themselves unpopular will be treated with less consideration than they sometimes receive now. Disciplinary cases will present a difficulty, and a minister's handling of them will be more closely scrutinised than if the decision lay with an official government. In short, ministers and public servants will take time to shake down into each other's ways: it would be foolish to imagine otherwise.

Their mitigation or settlemet.

48. No rules can afford immunity in all such matters, and we think that the task of making the new arrangements a success must fall on the Governor. We advise that this duty should be definitely and formally laid upon him by his instrument of instructions; and that a declaration to this effect should be made when the reforms are presented to Parliament, so that his role as protector of the public service shall be realized from the outset both by ministers and the services. We think that the permanent heads of departments and the secretaries should have access to the Governor, who will thus have every opportunity of watching the situation; and it will be for him, by influence and persuasion and finally by the tactful exercise of authority, to resist any proposals that aim at or tend towards the disintegration of the services. But in the last resort in case the Governor's intervention fails, it is necessary to provide a final safeguard. An officer finding his position unendurable should be entitled to apply to the Government of India for a proportionate pension. He would not prefer an appeal against the minister's orders on any matter of administration or any question of posting, promotion, or the like; but he would address the Government of India through the Governor in Council and would state his case and ask to be relieved from further service, and if the Government of India thought he had substantial grounds for complaint they would grant his request. An appeal would lie to the Secretary of State. But in the case of disciplinary orders passed by ministers which affect an officer's emoluments or pension, we see no option but to allow a direct appeal to the Government of India and to the Secretary of State. No officer of an all-India service should be dismissed without the orders of the Secretary of State. In the event of the ministers' orders being reversed a difficult position would no doubt ensue, and in this case also the only ultimate solution might be to grant retirement on proportionate pension. We recognise the drawbacks of this procedure. Whatever care be taken to avoid the appearance of judging ministers it is unlikely that officers with a grievance will keep silence; and once the practice is established applications for retirement may become numerous. But we have to find a middle way which will give ministers reasonable liberty of action and

give our public servants in the last resort full protection; and no better means of doing so presents itself.

49. In two respects therefore we think that the proposals of the Report cannot be literally translated into practice. In paras. 240 and 325 the protection of the services is made the duty of the Governor in Council. This arrangement would, we fear, defeat the object in view. The work of the public services in all branches is so intimately connected with the administration that it cannot formally be made a reserved subject: while, short of treating the services as reserved, to bring the official half of the Government into action for the purposes of protecting them would inevitably lead to friction between the two parts of government. Again in paragraphs 156 and 259 of the report expressions occur which will be read as promising detailed support and protection to a public servant in the discharge of his duties. In our judgment this involves too frequent opportunities of intervention to be a workable arrangement, or to be consistent with the due exercise of his responsibilities by a minister. We think that all that can be wisely guaranteed is in the last resort a right of retirement on fair terms, a generous right of appeal in clearly defined circumstances, and the steady exercise by a vigilant Governor of his suasion and authority in the direction of fair treatment, harmonious working and good feeling.

Modifications in the Report.

50. We will now briefly summarise our intentions as regards the all-India services. The basic idea is that the structure of the public service, its duties and the general conditions of its employment should remain as far as possible untouched by political changes, at all events until the advent of the first statutory commission. When a minister is placed in charge of a transferred department he will take it over as a going concern with its staff intact. The question of the recruitment of Indians for the services is an entirely separate matter and will be regulated in accordance with the general policy prescribed by the Secretary of State. The actual recruits, whether European or Indian, and in whatsoever proportion, will come into a service regulated on uniform lines and as little concerned with political controversy as possible. As in the past, rules of conduct will be maintained for all public servants, however employed under the standing orders of the Secretary of State. The services will be required to show the same diligence and fidelity to ministers as to the official part of the local Government. The general conditions of their service will continue to be ordered by the service regulations (or by any special contract of recruitment), no difference being made wherever they are employed. And they will be amenable to the minister's orders and discipline just as they will be in a reserved department to the orders and discipline of the Governor in Council. On the other hand, while ministers will be supported in requiring their staff to carry out their policy, their employés will be protected, as now, against arbitrary or unjust treatment. To this end they will be given reasonable access to the authority by which they were recruited, and they may not be dismissed, without at least the order of that authority—a rule universally accepted at present. But the power of intervention between them and the public servants under their

All-India services: proposals summarised.

control will be kept down to the minimum, and the right of appeal from ministers will be as little in evidence as possible. Appeals should lie only where emoluments or pensions are affected; but where they do lie they should lie up to the Secretary of State.

Officers serving with both parts of Government.

51. It will frequently occur that a public servant will have duties in both a reserved and a transferred department; the district officer may be the most prominent instance of the kind. It will make for simplicity and avoid improper conflict of jurisdiction if for purposes of posting, promotion and discipline such officers are kept entirely under the control of that part of the Government which is concerned with the budget head from which their pay is met. It may have to be arranged that ministers will contribute to the emoluments of officers partly employed under them in a ratio to be fixed by the Governor (and ultimately by rule), and similarly to their pensions on retirement. On the side of their work which concerns the transferred departments, such officers will be expected to take and carry out the directions of ministers exactly as if they were whole-time officers in those departments. But it is clear that they cannot be subjected to the discipline of two different authorities; and if either part of the Government is dissatisfied with the execution of its orders we see no other course than for it to represent the matter to the Governor. It will be one of the most important duties of the Governor to deal with a delicate situation of this kind.

Provincial services: organization.

52. The provincial service may be treated more briefly. We recognise that a time must come, and may come soon, when ministers will wish to take the provincial service of their departments entirely into their own hands, and to regulate their recruitment, pay, pension, and the like; but we think that they should not do so until they have put these matters on a legal basis by legislation. It seems to us that such legislation may reasonably be required to secure selection over the widest possible field on a basis of merits and qualifications, and to minimise the risks of nepotism; to ensure efficient training for the higher duties; to guarantee discipline and integrity; and to provide adequate pay, security of tenure and satisfactory conditions as regards pension, promotion and leave. But pending the passage of such legislation, we are of opinion that the determination of the conditions of the provincial service, even in transferred departments, must be left in the hands of the Governor in Council. The case in fact is one in which the principle of defining responsibility must give way to the superior principle of securing the interest of the public. The existing rules of recruitment should therefore be maintained unless altered by the Governor in Council. The aim should be steadily to eliminate the element of patronage and to establish a system of appointments by examination before or after selection, or, where appointments are made direct, to set up some exterior authority for the purpose of advising. Appointments in transferred departments should be made in accordance with the rules so established, by the Governor after consultation with ministers. In respect of pay we think that, as a check upon any tendency to overload the services at the top, the Government of India should retain some control over

the emoluments of the highest posts in the service, and for this reason we suggest that our sanction should still be required to any new appointments on pay exceeding R1,000 or to the raising of the pay of any appointment above that limit. As regards service reorganizations we have already recommended to you that local Governments should be given freedom of action up to a pecuniary limit of five lakhs of rupees, a figure sufficiently high to provide for all reasonable reorganizations of the most costly provincial services. The questions of allowances, foreign service and leave can, we think, be disposed of on the same lines as we have suggested for the India services. As regards pensions we think it necessary, before the reformed constitution takes effect, to set ministers an example by legislating ourselves in the Indian legislature to secure the pensionary rights of all the provincial services.

Provincial services, administration.

53. It seems to us that matters of administration and discipline can only be treated on the same general lines as for the India services. The minister must direct the administration of transferred subjects incluiding such matters as postings and promotions. The Governor must be instructed to encourage him to promote the well-being and content of the service. Officers cannot be given any option as to transfer, but officers at present in the service finding their position intolerable should be able to ask for a proportionate pension. Such applications should go to the Governor and an appeal should lie from his decision to the Government of India. Only in disciplinary cases affecting emoluments or pensions should there be a regular appeal, and it should lie to the Government of India and from them to the Secretary of State.

Subordinate services.

54. The third division would embrace the minor executive posts, a bulk of the ministerial establishments, the menial service and the like. In respect of these we feel our obligation to see that the rights and privileges of present incumbents are maintained and in particular that their pensions and provident funds are secured. It may be possible to attain this object by directions to the Governor in Council or by instructions to the Governor; but we propose to consider further the question of making provision for their pensions and provident funds in the legislation which as already explained we desire to undertake in the Indian Legislative Council.

Public Service Commission.

55. In most of the Dominions where responsible government has been established, the need has been felt of protecting the public service from political influences by the establishment of some permanent office peculiarly charged with the regulation of service matters. We are not prepared at present to develop the case fully for the establishment in India of a public service commission: but we feel that the prospect that the services may come more and more under ministerial control does afford strong grounds for instituting such a body. Accordingly we think that provision should be made for its institution in the new Bill. The Commission should be appointed by the Secretary of State, and its powers and duties regulated by statutory rules to be framed by the same authority; we shall

make detailed suggestions upon the matter in our despatch on the Bill.

Provincial finance.

Vital importance of financial system.

56. The second great function of government which will be common to both halves of the dual executive is finance. Apart from its importance as the fuel of the whole administrative machine, the finance of a country is a symptom and a gauge of the quality of its government. We have thus felt that no part of the scheme of reforms demands from us a closer or more anxious study than the financial arrangements with which the new system of administration will have to start. We are all the more impressed with the necessity for a wise decision by the fact that it is the financial side of their work for which the representatives of the people will find that their former political experience has done least to equip them. If there were no other reasons, it would in their interests be imperative that we should seek and establish a basis of thoroughly sound financial working. Simplicity and the directest possible relations between methods and results are of the essence of good finance; and the elimination of every avoidable point of conflict or friction between the various financial authorities is demanded by the welfare of the taxpayer. If the arrangements are ambiguous, or if they provide opportunity for needless friction, the new régime will start under a handicap which will seriously prejudice its future development. We have received comparatively little intelligent criticism on this part of the scheme, which makes it all the more incumbent on us to be sure of our ground. We shall thus have thus to allot to an examination of the financial proposals in the Report a space in this despatch which may appear disproportionately large. It will be convenient to take the whole of these proposals together, even though this involves some repetition of other passages in the despatch. The scheme will be found in paras. 200—211 of the Report, where a system of financial devolution is outlined, and in paras. 255—257 where the budget procedure of the future provincial government is briefly indicated. As we proceed, it will become apparent that the picture requires some filling in, and in that process we have found some parts of the original sketch which call for modification.

Three leading principles.

57. Given the dualistic structure of the provincial government, and the policy of preparing a field in which responsibility to the people can be steadily substituted for official control, we conceive that our financial dispositions must be based on three leading principles.

First, the present external control over provincial finance must be withdrawn in the largest possible measure.

The genesis and extent of this control have been described in paras. 104—113 of the Report. It has been shown that it originated in good and valid causes which are now passing away. The central Government had to rely largely upon the provinces for collecting the revenue it required. It had to supervise closely the expenditure of the provinces in order that the margin of provincial resources available for its own needs should not be unduly diminished. It was banker

for the provincial funds, and could not, without embarrassment, allow them to be drawn upon too freely. Finally, it maintained as its ideal the duty of bringing to bear upon the outlay of the provinces that scrutiny which in other countries is usually applied through parliamentary institutions. The Secretary of State and the Government of India, in other words, endeavoured to be the financial conscience of the administration, and to see that proposals for provincial expenditure were thoroughly examined from the point of view of economy, of financial propriety, and of the interests of the taxpayer. It is clear that we must now gradually withdraw from this last position, and thereby afford room for the people's representatives to learn the duties which financial administration entails. Along with this, however, we must continue to obtain at least a part of our resources from and through the provincial governments; but we must alter the existing arrangements in the direction of much greater simplicity, and ask the provinces to make straightforward payments for the services rendered to them by the central Government.

Second, within the province, each half of the government should have a defined power of raising the revenue to provide for the expenditure which it considers necessary.

It should know exactly what are its own resources, and should have the duty of developing them and the right to expand them. Here again simplicity is of the essence of the proposition; confusion or counterclaims are unthinkable. "If the popular principle," says para. 109 of the Report, "is to have fair play at all in provincial governments, it is imperative that some means be found of securing to the provinces entirely separate revenue resources." We regard this statement as equally applicable, without challenge or qualification, to the position of ministers in financing their transferred subjects. To our minds it is imperative that they also, and for precisely the same reason, should be secured in the possession of separate revenue resources.

Third, during the period of training and advance in political experience, the people must be protected from unjustifiable financial burdens.

It will be seen that we adopt here principles which are closely analogous to those on which we base administrative delegation; for, in truth, the two lines of advance are inseparable. In the following paragraphs an attempt will be made to set out the whole governmental mechanism of finance in the form which appears to us to be best adapted to the ends which these principles require it to serve.

Relaxation of external control.

Resulting position.

58. The axiom underlying this first part of the subject will be found in para. 189 of the Report, which announces the intention of "giving the provinces the largest measure of financial independence of the Government of India which is compatible with the due discharge by the latter of its own responsibilities." The Report aims at securing this measure of independence by various methods. The chief of these are (*a*) radical changes in the system by which provinces give up

certain shares in their revenues to the central authority, and (b) a relaxation of the orders under which proposals for provincial expenditure have to be submitted to the Secretary of State for his approval or otherwise. Under the first head it is proposed to abandon the arrangements by which a province is given just enough of its own revenues to cover its normal charges, while the central authority becomes, so to speak, the residuary legatee of whatever the provinces collect. In place of these arrangements or "settlements," the central services—the Army, Diplomacy and the like—will, in future, have adequate resources secured for them, partly from the yield of the central revenues—Customs, Salt, Railways, etc.—and partly by defined contributions from the provinces; while the provincial governments will keep whatever they collect within their own provincial field, subject only to the payment of these contributions. Under the second head, the Report proposes largely to delegate the Secretary of State's financial powers (for the Government of India exercise very little separate or intermediate control) by altering the present financial codes and standing orders. These principles of action have met with general approval in India, and we are in full accord with them. We must, however, make it perfectly clear that, under these new arrangements, our own responsibility will be appreciably narrowed. We recognise that, helped by the audit, we shall still have a general responsibility for financial propriety and the avoidance of wasteful or extravagant expenditure. We also recognise that we are answerable for it that a province does not become insolvent or unpunctual in paying its debts. These duties rest upon us so long as we are responsible to Parliament for the good administration of India. We conceive, however, that, with the grant of this new financial liberty to the provinces, we shall no longer be required to watch their financial proceedings in detail, or to enforce from day to day measures which may seem to us necessary to correct financial error. Our intervention in future will take the form mainly of advice and caution; though we cannot ignore the ultimate call that may be made upon us in extremities to issue definite orders which a province must obey if it wishes to retain its constitution.

Provincial expenditure.

59. The relaxation of the orders which require our scrutiny and your approval to proposals for provincial expenditure is a wholly technical matter, which it would be difficult to cover in the compass of this despatch. It is also, so to say, a domestic matter, which, we presume, you will be able to effect by rules or orders under the Act. We have indeed already made suggestions regarding the broad lines of procedure. These we briefly enumerate below, not by way of anticipating your concurrence but merely in order to give completeness to our picture of the future.

(a) *Expenditure on the public services.*—Our suggestion is that, with the omission of appointments made by you under direct agreements, the post in the public services of India should be classified in the manner described in paragraph 45 above. In regard to the all-India division, we advise that you should retain virtually your existing power over the strength

and the pay of the services comprised in it, while abrogating them in regard to the other divisions. In all subsidiary matters, such as temporary appointments, foreign service, allowances of all sorts, leave rules, age of retirement and the like, we propose that you should lay down broad fundamental regulations, and leave all details to be administered here in accord with those regulations and under scrutiny of the audit. As to pensions, we strongly recommend that the scales and general conditions should be incorporated in rules which you will frame under the new Act.

(b) *Expenditure on the staff of public offices.*—Here our suggestion is that all minor restrictions on the powers of a provincial government should be removed, subject only to your approval being necessary in cases where the outlay exceeds a high and definite pecuniary limit or, in the alternative, where certain fundamental principles of administration are involved. This particular question is being examined in more detail

(c) *Expenditure on public works.*—Here also we shall have to suggest a high monetary limit up to which works may be undertaken by a provincial government without reference to you.

(d) *Amenities of high officials.*—In regard to these we do not suggest any relaxation of your present control.

(e) *Expenditure of an unusual nature, or devoted to objects outside the ordinary work of administration.*—In place of this criterion we propose that you should lay down canons of propriety and leave them to be enforced in India under the surveillance of the audit.

(f) *Audit.*—The above proposals are contingent on the existence of a powerful and independent central audit, which will bring financial irregularity and misdemeanour prominently before the executive and the legislature. In order to define the scope and methods of audit, and its relations with the Government, it will be necessary for us to enter into much detail, which, we think, can most suitably take the form of an Indian Audit and Exchequer Act, and rules thereunder. A draft is now under preparation and will, we hope, be shortly submitted to you.

When decisions are reached upon the foregoing proposals, it will then be our duty to review the whole of our codes and bring them into accord with the principles accepted by you. It is our expectation that, apart from a digest of the financial powers which you will retain, the rules for the control of public expenditure within the provincial field will ultimately be exclusively contained in separate codifications for each province, built up and amended as required by the provincial authorities. One word of caution is necessary in regard to these proposals; they have been framed by us with a view to reserved subjects, and it may be possible that some further relaxation of control may be required in regard to transferred subjects as a result of the report by Lord Southborough's committee.

60. We return now to the first method which is recommended in the Report for increasing the responsibility of the provinces for their own finances:—the abrogation, to wit, of the complicated division of revenues which is now in force, and the establishment of a clear line of demarcation between central and provincial resources. While, as we have said, we fully accept this principle, we are engaged on an analysis, at more leisure than was possible last year, of the figures used in the Report (para. 206) to exemplify the method of the future. We propose, by a careful study of our total expenditure, including that part of it which is incurred by you in England, to determine the true all-India deficit which in normal years the provinces will have to make good by contributions. At the outset, we should allocate these contributions on the basis taken in the Report, namely, an all-round ratio of the gross provincial surplus. They would then, subject to the re-adjustments *inter se* which we contemplate in the next paragraph, become a fixed charge upon the provincial revenues. One local government has put forward the claim that the provincial contributions, once fixed, should never be raised. We certainly do not anticipate any further levy from the provinces under normal conditions; but we must definitely reserve the right, in the event of war or similar grave emergency, to ask special help from provincial revenues. This would ordinarily be done on such terms as they may agree upon for the repayment of the temporary accommodation. As we foresee the position, however, the reverse process will be the more frequent. As the revenues of the central exchequer develop with the growth of industries and railway communications, it will probably be in our power to make a reduction in the provincial contributions. This will generally take the form of rateable remissions unless we wish to employ the grants for the purposes of the next paragraph. This must not of course be taken as limiting in any way our discretion to remit central taxation when we find our revenues becoming in permanent and substantial excess of our requirements.

Provincial revenues.

61. We have explained above that we accept for the present a scale of contributions rateable to the gross surplus of the provinces, in the manner calculated, though not in exact conformity with the figures quoted, in paragraph 206 of the Report. No other device would leave each province with a surplus of its own, and consequently no other device is opon to us. When we look at the result however, its equity is obviously liable to attack. From Madras we shall be levying nearly five times as much as from Bombay; and from the United Provinces nearly five times as much as from Bengal; while the Punjab and Burma will also be contributing far more than wealthier provinces. Hostile comment has already been evoked; and we have had natural and vehement protest from Madras and the United Provinces, which are most detrimentally affected. It is no sufficient reply, although it is true, to say that these figures merely bring into prominence what has hitherto been disguised by the complicated financial arrangements of the past; and that they impose no fresh burdens. The mere disclosure of the true position makes it impossible to perpetuate the inequality, and we shall be told with unanswerable force that the first duty of a responsible government is to pay its own way. The difficulty of the position was

Committee on financial relations.

foreseen in the Report and investigation by the first statutory commission was promised. In view, however, of the strength of feeling which has been aroused, we feel obliged to advise an earlier treatment of the question. We recommend that the initial contributions should be recognized as temporary and provisional, and that steps be taken as soon as possible to fix a standard and equitable scale of contributions. We have no wish to prejudge the issues, or to attempt to define what we mean by an equitable scale. It is quite conceivable that the disparity of the scale in the Report is to some extent redressed by the indirect payments which the lightly-burdened provinces make to the central exchequer through the customs receipts and otherwise. In any case the determination of the paying capacity of a province or of the criteria by which that capacity should be judged is far from easy. All that we can say with assurance at present is that we cannot justify the permanent retention of the criterion proposed in the Report, and that, after full enquiry, a standard scale should be fixed, towards which the provinces will be required to work by stages, as a condition of the new arrangements. To some extent the readjustment may be expedited by giving the more heavily burdened provinces the exclusive advantage of any remissions of the total provincial subsidy which the central authority finds itself able to grant from time to time. Or it may be necessary to prescribe a sliding scale, by which the provinces now favoured will raise their relative contributions at fixed intervals, presumably with the help of fresh taxation. The whole question however requires skilled investigation; and we propose that a Committee on Financial Relations be appointed, either by you or by us, to advise fully upon the subject, so that each province may know exactly how it stands before the new régime starts. There are to our thinking the strongest possible reasons for the appointment of such a body to undertake this important duty and others of equal moment which will be discussed a few paragraphs later.

Provincial taxation and borrowing.

62. Among other steps which the Report advises towards greater provincial independence is the grant to provincial Governments of enlarged powers of taxing and borrowing on their own responsibility. We accept, in accordance with virtually all the opinions received, the proposal that you should schedule by rule the taxes for the imposition of which a province requires no special sanction. We suggest that in that category there may be placed succession duties; taxation of the unearned increment on land; taxes on advertisements, amusements and specified luxuries; and generally any supplement to revenues which are already provincial, such as land cesses, higher court-fees, increased charges for registration, and enhanced duties upon articles upon which the excise is not regulated with reference to the tariff schedule. We should not include, however, any form of increment to the revenues of the central Government, any addition to the list of excisable articles, or any duty (except as suggested above) on imports into the province. The schedule can be extended from time to time, and we have merely put forward the few suggestions which have so far occurred to us. If a province wishes to go outside the schedule, it must obtain our prior sanction to the proposed legislation, and we presume that section 79 (3) of the Government of India Act will be altered accordingly. We do

not think it necessary, as suggested in the report (para. 210) that we should see, before its introduction, a bill for the imposition of a tax which falls within the schedule. It is true that a local tax may encroach on the sphere of central taxation without technically infringing the schedule; but the existing law seems to provide sufficiently against such encroachment, and the veto could reasonably be employed in case of doubt. The limits which the Report proposes upon the future liberty of raising loans by a provincial Government have our entire concurrence. They have evoked some criticism, especially from local Governments who desire an unfettered power of borrowing for provincial purposess, while other critics demur to our scrutinising the purposes for which a loan is required. The demand for entire liberty to borrow we cannot possibly accept. The narrow Indian loan market, strained as it will be by the coming demand for development in all directions, will have to be carefully nursed by us, and we cannot afford to be embarrassed by unrestricted competition either from or among the provinces. On the second contention, all that we need say is that, in years when the demand for loans exceeds the offers, we must undertake some rough measuring of the relative merits of the proposed expenditure before we make the final allotment. So far as is possible, we should endeavour to refrain from questioning the discretion of a province; and it will probably be helpful to lay down certain general rules. For example, priority would inevitably be given to a loan required for famine purposes, or to finance what is technically known as the Provincial Loan Account. It might also with propriety be laid down that a province is not to borrow except for capital purposes, *i.e.*, for obtaining a permanent asset of a material character. In the case of unproductive debt the establishment of sinking funds should also be prescribed. Some such rules would relieve us of much detailed scrutiny; while if they are infringed by a province which has been permitted to borrow in the open market, its action would be challenged in audit, and treated as a failure to discharge its responsibility for maintaining solvency.

Provincial balances.

63. In the past the central Government has retained a firm hold over the balances of a province. For one reason, it was the banker for the provinces and had to take precautions against inconvenient withdrawals; for another reason, it had to be vigilant against expenditure which might break down the settlement of the province and leave it a claimant for help from the central revenues. There is in consequence a standing order that the major provinces have each to maintain a certain minimum balance. There are rules controlling the operation by a province of its own balances. Furthermore a province may not budget for a deficit unless it satisfies us that the excess expenditure is non-recurring and abnormal. In all these matters change will be necessitated by the financial emancipation of the provinces. In the first place we think it is clear that each province ought to take over its Provincial Loan Account from us. This Account, as you are aware, represents the fund from which a local Government advances agricultural loans, loans to indebted landholders, to municipalities and other local bodies, etc. The capital is provided by us as it is required, and returns to us as it is repaid. The province pays us interest on the average capital outstanding in each year, recouping itself by higher rates of interest which are

supposed to compensate it for bad debts. Under the new régime, we consider that the provinces should provide their own finance for those transactions. It would be convenient if the committee on financial relations, which we have proposed in para. 61 above, would examine the state of the account in each province, and determine once for all the amount by which each local Government should remain in our debt. Although the present provincial balances run to unusually high figures, it is doubtful whether any local Government would be able to liquidate the capital now owing to us, without weakening its capacity to carry on the loan account. Several of the provinces, however, ought to be able to repay some part of their liabilities, and the balance could be funded in a loan for which we should receive interest, and possibly also sinking fund payments towards its ultimate extinction. We do not pursue the details further, as we trust to receive assistance in developing them from the committee to which we have referred. In the second place we should have to regulate the provincial balances of the future, to safeguard the famine assigment proposed in para. 204 of the Report. With the scheme there outlined we are in complete accord, and we suggest that a few simple rules should be made for the earmarking or investment of the cumulative assignments, as well as for the conditions under which expenditure against them should be permissible. In the third place we propose to abrogate the existing rules about minimum balances and sanction for a deficit budget, and to leave local Governments to their own responsibility in these matters. Lastly we should desire a regulation to the effect that a provincial Government must give us timely intimation of its intentions to make any draft upon its balances during each financial year. Apart from other obvious reasons for obtaining such information, it would provide us in case of war or similar crisis with the opportunity for inviting local Governments to co-operate (which in the last resort we must have power to require them to do) in conserving the financial resources of India as a whole. We should thus replace our present control over provincial balances by a few simple regulations which will be recognized as reasonable and certainly not burdensome.

Provision of Supply.

Allocation of resources.

64. We have so far been considering the new financial powers and duties of the provincial Government as a whole. We now come to the distribution of those powers and duties among the two halves of the government: and we thus approach one of the most difficult parts of the scheme, where the wisdom of the conclusions will be rigorously tested by the practical working of the future. The Report proposes that the revenue from reserved and transferred subjects alike be thrown into a common pool, from which the two halves of the government will draw the funds for their respective requirements. The amount which each may draw is to be settled yearly at the budget time, after consultation between the executive council and the ministers. The principle of division is that the reserved subjects of expenditure are first given the supply which they need, and the transferred subjects of expenditure receive what remains in the pool. If this is insufficient, ministers may go to the legislature for extra taxation: but it is ministers alone who may initiate taxation

measures. When the budget as thus framed comes before the legislature, it may alter it in any way. If, however, an alteration so made has the effect of reducing the provision of funds for a reserved subject, the Governor by certificate may cancel it. We appreciate the motive by which these proposals are inspired. We recognise that they are based on a desire that each half of the Government should, if possible, be brought into sympathy with the needs of the other half; that the supply for reserved subjects should be duly secured; and that ministers should be trained to accept the gravest of all responsibility *vis-à-vis* the people, the responsibility for taxing them. With the intentions underlying the proposal we have no quarrel; but we have grave doubts whether they can be fulfilled, and it is when we come to work out the practical details of daily business under a scheme of this description that our difficulties arise. The proposals have met with astonishingly little criticism in India. A considerable volume of opinion resents what is described as the invidious burden of making ministers solely responsible for the unpopular business of taxation. We have also had protests against asking the transferred departments to live upon the crumbs that fall from the table of the richer reserved departments. Other critics, however, probably more acute, realise that the funds for reserved subjects can never, however great the necessity, be supplemented by taxation. They believe that it will never in practice be feasible to develop reserved subjects by drastic reductions in the funds which would otherwise be available for transferred subjects. They thus foresee a state of affairs in which any substantial increase in reserved expenditure, for example the contingency of having to improve the pay of our police, will be at the mercy of ministers, although ministers will have no responsibility for the consequences of refusing the desired provision. We are not prepared to believe that the Report contemplated this method of paralysing executive action; and we do not consider that the scheme, as it stands, is assisted by support based upon this rendering of it.

Our difficulties.

65. The success of the arrangements recommended in the Report depends upon their being worked by reasonable men who will conduct themselves in a reasonable manner (para. 257). It would be unfair on our part to assume wholly different conditions and to lay stress upon the impossible situation which will be created if ministers refuse to co-operate, either by reducing their own claims or by imposing taxation, in order to meet expenditure which the official half of the government considers essential to the proper administration of reserved subjects. But we must point out that even reasonable men will at times, in all good faith, differ vitally from other reasonable men when it is a question of providing supply for work which the former are responsible for safeguarding and developing, while the latter are only concerned in getting a share of the money for other work. We can well imagine circumstances in which reasonableness may not prevail. Let us suppose a year of low revenue receipts and of high prices. It has become imperative to improve the pay of some important reserved departments, and the demand cannot be postponed. Ministers refuse to levy a tax for the purpose either because they disapprove of it or because they consider the time unfavourable; the official half of the government finds itself compelled to reserve the necessary funds; the legislature refuses to allow any deflection of money from the transferred

subjects; the Governor has to interfere to restore provision which they have cut out; the legislature protests and ultimately refuses supply for any purpose whatever, as they would apparently have a constitutional right to do. In such circumstances, and with a perfectly honest difference of opinion, we should inevitably reach a deadlock. There will no doubt be provision for dealing with such a crisis; but it is eminently undesirable to afford opportunities for crises of this type. We are, therefore, not prepared to rely too implicitly on reasonableness when the circumstances must often be provocative.

In the matter of balances.

66. From this negative line of argument let us now turn to practical considerations which make us now advise definitely against the scheme of pooling revenues. Several of the difficulties which have forced us to this conclusion are strongly felt by certain local Governments. Without referring, however, to individual criticisms, we proceed to explain our own position. Our first difficulty relates to the provincial balances. In the Indian provinces, as you are aware, the unexpended income of a prosperous year is not used, as in our central exchequer or as in the United Kingdom, for the reduction or avoidance of debt; it accumulates with us and is kept at the credit of the province, although we may temporarily use the money for our own purposes. So long as this credit remains—and at present it has reached a very high figure in most provinces—the provincial government can thus over-spend its budget provision without having to borrow. If then, under the new régime, ministers find in any year that the sums allotted to them in the budget are insufficient for the requirements of their transferred departments, are they to be at liberty to draw on the general balance standing at the credit of the province? Presumably they would easily get the legislature to condone such a device, and it is difficult to see what authority is empowered to prevent it. Or it may be that the legislature, anxious to provide extra funds without taxation for a transferred subject, votes an amount which increases the deficit on the provincial budget as a whole and does so without provoking the Governor's intervention, *i.e.*, without reducing any reserved provision. Is this to be allowed? If so, may it not be possible in time for the provincial balances to become exhausted by outlay in excess of the available current resources, and probably of a recurring nature, on transferred subjects for which the legislature decline to vote fresh taxation? Is there then to be any limit up to which each half of the government may draw on the common balances, not by agreement beforehand, but under stress of the necessities of the year and the inadequacy of the budget provision? The matter is not discussed in the Report, but clearly requires decision.

In the matter of taxation.

67. Our next difficulty concerns taxation. The intention of the Report is that fresh taxation cannot be raised for the necessities of a reserved subject except by ministers and with their consent. If they refuse taxation, the reserved subject must go without the funds it needs. There is thus a marked difference berween taxation and legislation. If the Governor in Council needs legislation in order that peace and tranquillity may be secured, or in order properly to discharge his responsibility for the reserved subjects (para. 252), he has a special machinery for obtaining it. But he has no corresponding power to obtain taxation, though

it may be equally necessary for precisely the same purposes. It seems doubtful whether this position is tenable. Moreover it carries curious consequences. Let us suppose that the Governor in Council finds new and heavy expenditure imperative on some reserved subject, but that he cannot induce ministers to consent to impose taxation for it. The Governor then, under his exceptional powers, insists on the expenditure being provided for in the next budget, and the result is to leave ministers with inadequate funds for their transferred subjects. What is to happen? Are ministers to be compelled to raise a tax for their own needs—needs which have been created against their will—because they have refused to raise it for the needs of their colleagues on the official side of the government? Such procedure would be tortuous, provocative and indefensible. Again, let us suppose that ministers have consented to raise the necessary money, but the legislature will not pass their taxation measures; are they to resign as having lost the confidence of the legislative council? They would presumably be most unwilling to put themselves in such a position. Take yet another case. Ministers have raised a new tax for some purpose of their own. In the next budget the Governor finds himself compelled to add substantially to the reserved provision for some new necessity, and thus to curtail the provision for transferred subjects. Ministers virtually see their new taxation receipts going to finance some development for which they are not responsible, and of which indeed they may disapprove. What are they to do?

In the matter of borrowing.

68. Our third difficulty is associated with borrowing. If a province wishes to borrow, it may obtain a loan either from the Government of India or in the open market (para. 211). But whether the lender be the central Government or a private person, security will have to be given for the loan. That security presumably will not be the revenues of either half of the government, but of the province as a whole. Therefore, the loan must be guaranteed by the entire government of the province, and not only by one part thereof. Here the trouble begins. Suppose ministers wish to raise a loan for the development of a transferred subject, can a majority of the executive council veto the proposal if it is one of which they disapprove? If they have no power to do so, how can they be made financially responsible for such a loan? If, on the other hand, the executive council wish to borrow for a reserved subject (*e.g.*, forest communications) and ministers disapprove, what are ministers to do? It must be remembered that in certain contingencies the service of the loan (*i.e.*, the yearly interest and sinking fund charges) will fall on ministers; for such charges must obviously have a first claim on the provincial revenues in each year and may thus diminish the residue of those revenues which the Governor allows the legislature to appropriate for transferred subjects.

Report scheme abandoned.

69. We now proceed to sum up the difficulties which we have felt it necessary to enlarge upon above. We find that definite provisions are necessary to determine the following matters:—

(*a*) How, to what extent, and by whom, the balance at the credit of a province may be drawn upon;

(b) How money can be obtained either by taxation or by borrowing for the needs of a reserved subject;
(c) How the liability for the interest and sinking fund charges of a loan can be laid upon the authority for whose purposes the loan was raised; and
(d) How the proceeds of taxation are to be secured for purposes which rendered the taxation necessary.

In trying to frame regulations for those matters we have found that no possible settlement of them is compatible with the scheme for the allocation of supply which is set out in the Report. The sole object of over-drafts on a provincial balance, of provincial taxation, or of provincial borrowing is to add to the resources which are available for expenditure; and no regulation of those matters can be effective unless the resources of each half of the government are clearly demarcated. That is in brief our first substantive objection to the scheme of pooling. Our second is that the scheme is wrong in theory. It is wholly wrong that the official government should have the power to refuse funds for the work of the popular half of the government. It is equally wrong that the popular half of the government should have the power to refuse fresh taxation without which the official half cannot carry on. Each section of the government intrudes upon the work of the other in a manner which is wholly indefensible. Our third objection is the friction which the annual allocation of funds will generate. If there were no alternative, friction would have to be accepted, although even then we could not conceal from ourselves the gravity of its consequences. If there is any reasonable alternative, we certainly consider that friction should be avoided in the interests both of political progress and of the well-being of the people. Our fourth objection is that the scheme in the Report offers no incentive to either half of the government to develop its own resources. Importance is attached (para. 256) to the "educative efficacy of the annual budget discussion." In our opinion there is another educative influence which the scheme omits to utilise, namely, the training in administration which is provided when the administrator receives, for his spending departments, the benefit of any improvements which he can effect in his revenue departments. It is here that the true inducement lies for him to take an interest in, to expand and to develop his sources of revenue. Under the pooling system any improvement which either half of the government can effect goes into hotchpot, and they get no direct advantage from it, possibly no advantage at all. Any mismanagement of which either the executive council or the ministers are guilty does not recoil upon them; they still strive to get all the money they can out of the common revenues. Neglect brings no punishment, energy no reward. To our thinking this objection in itself goes far to turn the scale against the scheme of pooling.

Our proposals. Separate purse.

70. It is now incumbent on us to describe the alternative proposals which we recommend. The first step is an actual division between the resources available for the purposes of the Governor in Council and those available for the purposes of ministers; two separate pools instead of one pool. In order to arrive at this several stages are necessary.

The first stage is a thorough examination of the provincial balances. In the balance at the credit of each province there will be found a number of items earmarked for special purposes; and the natural course would be to place these formally at the disposal of that half of the government which controls the spending department concerned. It may also be necessary, in provinces liable to famine, to earmark a substantial sum as the nucleus of the fund to which the annual famine assignment will belong. This question can only be decided for each province with regard to the amount of its assignment and the period which has elapsed since the last scarcity. There may be other adjustments into which we need not enter now. After all adjustments are made, however, there will remain a free balance, which we propose should be divided between the two halves of the government, so that each will know exactly what margin it has for unforeseen or non-recurring expenditure. This division will naturally be followed by rules prescribing the manner in which the balances may be drawn upon, and the degree of treasury control over the purposes of such drafts. The second stage is the definite allocation to each half of the government of the receipts from the reserved and the transferred subjects respectively. Ministers will have, without interference or reservation, the full revenue from their own earning departments, and will be able to count upon it in preparing their schemes of expenditure. The Governor in Council will be exactly in the same position; but it should be noted that from his resources will have to be deducted—unless the deduction can be taken before the allocation is made—all charges which are given a statutory priority on the provincial revenues. These would include the contribution of the province to the central exchequer; the charges for existing loans; and possibly certain salaries on the analogy of the Consolidated Fund in the United Kingdom. The third stage will be to determine the division of the surplus. It will be remembered that under the scheme of contributions every province is left with a surplus, large or small. We propose that each half of the government be told what share of this surplus will be at its disposal. We realise that "the transferred services are generally those which stand in greater need of development" (para. 255); and we should desire the lion's share of the surplus to be placed at the disposal of ministers. The fourth stage will be to estimate the normal expenditure for reserved and transferred subjects respectively, and then to add to these figures the share of the surplus which we have decided to allot to each. We should thus arrive at the amount of normal revenue which each half of the government requires for the proper conduct of its administration. Let us then take the case of ministers. If the revenue which we have decided that they require is not in normal circumstances to be obtained from their earning departments, the difference should be made good to them by an assignment from the revenue of the reserved departments. If, on the other hand, the receipts of the official half of the government will not normally equal the revenue which we have determined that they require, an assignment would be made to them from the transferred departments. Ordinarily speaking, we should like to see the assignment in either direction take the form of a definite fraction of some head of growing revenue. Failing that, we should not object to a lump subsidy, rising, if the proposals in the next paragraph are accepted, in a sliding scale for the period for which

the assignment or adjustment is calculated. We have now described what we may for shortness call the "separate purse" system. The advantages of a separate purse were accepted by all but one of the Heads of Provinces who met us last January, provided that the system can be made workable. We have endeavoured to show that it is both workable and simple; and we have actually worked it out tentatively for two exemplar provinces though we do not burden this despatch with the calculations. It seems to us to be free from all the main objections which we found in the pooling system. It allows each half of the government to forecast its expenditure with a sure knowledge of the revenue which will be available to cover it. It informs them what part of the provincial balance they may draw upon. It is compatible, as will be shown below, with their enjoying the proceeds of their own taxation, obtaining their own loans and accepting full liability for repayment of the money they borrow. It gives each half of the government a direct interest in improving the sources of revenue which are placed in its charge. Finally, it narrows down to the mere question of a single adjusting figure the field of financial conflict between the two halves of the government, and thus largely reduces the opportunity for friction inherent in the scheme of the Report. We may add, as will appear, from para. 73 below, that it does not remove reserved expenditure from the purview of the legislature.

Periodic adjustments.

71. Friction can, in the opinion of most of us, be still further diminished by taking another step in the process of allocating resources. This step would be the fixation for a period of years of the adjustment between the two halves of the government. It would for example, be determined for three or five years whether ministers should receive 15 per cent. of the land revenue to balance their requirements, or whether the reserved departments would have to be placed in a position of equilibrium by receiving, say, 10 per cent. of the excise revenue collected by ministers; or the decision might take the form, as we have suggested above, of a lump subsidy from one side to the other, fixed so as to increase automatically in each year. By a settlement of this sort we should get rid of the yearly wrangle that would attend the annual adjustment. Some apprehension has been expressed that a periodical adjustment of accounts will only mean accumulated bitterness and would be worse than a series of annual disputes. We do not share that apprehension. We think that the permanent open sore would be worse than the periodical operation. In actual practice the yearly dispute at budget time would range over future requirements not yet tabulated, and would accordingly be vague and unsatisfactory and largely academic. If on the other hand the settlement be made at intervals of several years, the merits of the case could be threshed out on the recorded expenditure of the intervening period, and with reference to the policy actually initiated and estimated for. We favour therefore a periodical as opposed to an annual settlement. There is in the Report a passage (para. 256) which seems to condemn this proposal on the ground that it is an attempt to foresee the contingencies which may occur and to budget in advance for a long period. What we now propose, however, is in no sense a budgetary arrangement. In separating the resources of ministers from those of the executive council, we should not be attempting in any way to forecast the budget provision by either authority for

one year or for any number of years. The analogy of a municipality or a rural council is not inappropriate. In such cases we invariably begin by defining what sources of revenue the local body may count upon—license fees, school fees, ferry receipts, district cesses, and so on. The local body is informed that these are its available funds, probably to be supplemented by grants-in-aid; and it has clear warning that, if necessity arises for spending more money than these resources yield, it must have recourse to taxation. In doing all this we should certainly not be framing a budget for the local body in question; at the most we should be indicating the limits within which its budget will have to be drawn. It is precisely the same with the method of settlement which we propose as between reserved and transferred departments. The arrangement would merely tell the authority responsible for each what are to be its available resources; what opening balance will be at its credit: and consequently what range of expenditure it may provide for, and at what point it must face extra taxation. If, therefore, the difficulties which have been expressed regarding our proposals are no longer insisted upon, we suggest that the adjustment of the separate purse be made at intervals of several years under simple, definite regulations. It could be made either by an outside impartial body, or by a tribunal which the Governor would appoint *ad hoc*, and on which the legislative council would no doubt be represented. The latter seems preferable, for the Governor could always obtain an expert adviser or an umpire from the Government of India. The matter is one which we can devolop later if the principle is accepted by you; and the working of the system could suitably be reviewed by the periodic statutory commissions. Meanwhile we strongly advise that, at the biginning of the new arrangements, provision should be made for :—

(*a*) dividing the balance now at the credit of each provincial government between its two halves, and incidentally deciding upon the famine insurance arrangements and the treatment of earmarked items; and

(*b*) making the first settlement on the separate purse system for a preliminary period, in order that the new provincial government may not be burdened at the outset with unnecessary financial controversies.

We suggest that this duty be imposed upon the committee on financial relations which we have recommended above; and that it be undertaken as soon as the list of transferred subjects is settled for each province. We are clear that this initial task must be done for the provinces by outside agency, for the simple reason that the new machinery must be placed in a clear and intelligible financial position before it begins work.

Arrangements for taxation and borrowing.

72. We are anxious that, just as the sources of ordinary ruvenue are defined, so also there should be a clear allocation of responsibility and results in the matter of taxation and borrowing. We propose that either half of the government should be free to raise a new tax for its own purposes (though this need not debar both halves of the government from combining, if they can agree to do so, in a joint tax for their common purposes and dividing the proceeds). The new tax would be assessed

and collected by the authority to whose department it belongs; for example, a cess on land would be collected in the land revenue department; but the proceeds would be credited to the authority which imposed the tax. Some difficulty has been felt about this dividing of the power of taxation. The proposal in the Report that ministers alone may tax is met by most critics with the objection that taxation must be an act of the whole government. There is truth in this; and at any rate it goes without saying that in a matter of such importance as new taxation the Governor would insist on a full measure of prior consideration by his whole government, and would satisfy himself both as to the necessity for the measure and as to its suitability. We do not, however, wish it to be possible that one half of the government should be able to veto taxation by the other half. The question will be, like many others, one which will be debated, from all points of view, at a joint meeting of the executive council and ministers, so that every aspect of the proposal may be fully considered. Having heard all that has to be said, the Governor will then decide whether to concur in the proposal if it emanates from the official side of the government, or to exercise his power of veto under section 50 (2) of the Act. Similarly, if the proposal originates with ministers, he will have to decide whether to accept or overrule it. If opinion is divided, the consent of the Governor to the imposition of the tax will be the deciding factor. In regard to loans, the procedure to our minds should be closely analogous. We are convinced that here also both halves of the government should have equal liberty. It is correspondingly evident that the authority which borrows should undertake the sole liability for the payment of interest and the repayment of the loan by a sinking fund or otherwise. Inasmuch, however, as it would be against the interests of the tax-payer to borrow on anything but the best available security, we should lay down as essential that all provincial loans must be secured upon the whole provincial revenues, and not only on the resources of that part of the government which has raised the loan. This necessitates just as clearly as in the case of taxation, a full consideration of the subject by the whole government. The procedure will be exactly similar; but the final assent of the Governor to the raising of the loan will imply that the whole revenues of his province are being pledged as security for it. When the loan is obtained, it will go into the balances of the authority which asked for it.

Provincial budget.

73. The way has now been cleared for a description of the provincial budget of the future. This should not take long. Each half of the government, as soon as it has estimated the receipts from its own heads of revenue, will know exactly what expenditure it can afford. With the help of the finance department, to which we shall refer below, the expenditure estimates will then be framed accordingly. If either part of the government has to dip into the provincial balances, it will be under no misconception of the amount of balance available, and will know under what conditions it may draw thereon. If it finds that the current expenditure is likely to be far in excess of the year's revenue, it may decide to ask for fresh taxation. The Governor will then convene his whole government, and after full consultation, decide whether taxation is to be proposed to the council, and in what form. Similarly, if either side of the government proposes to borrow during the year, joint consultation will enable the

Governor to decide on the proposal. All these points being settled, the executive council can complete its own estimates and ministers can complete theirs. The finance department will combine the two sets into one budget, which will be formally presented to the legislature by the member of government in charge of finance. On the presentation of the budget, the members of the executive council will first explain their respective estimates, and the legislature will dicuss any resolutions that may be moved in regard to them. Ministers will follow and similarly explain their figures, and meet resolutions upon them. If either part of the government asks for new taxation which involves legislation, or desires to raise a loan, it will introduce a bill for the purpose. If the bill comes from the official side of the government and the legislature proves hostile, the Governor can exercise his right of removing it by certificate to the grand committee. If on the other hand the bill has been promoted by ministers, it will stand or fall by the decision of the legislative council. There would be a similar distinction in the matter of resolutions. If a resolution is carried on a provision for the reserved departments, it will not be binding upon the government. If it is carried against ministers on a provision for a transferred subject, it will also be not binding; but ministers will have to consider whether the resolution in these circumstances is tantamount to a vote of no confidence upon which they ought to resign, or whether they can afford to ignore it and remain in office. Certain general rules, however, will govern all resolutions. One obvious regulation will be, in pursuance of House of Commons practice, that no resolution for any grant or charge on the public revenue may be moved except by a member of the government. Another will have the effect of permitting a resolution to propose an addition to one budget grant in exchange for an equivalent reduction in another. This however will be subject to the stipulation that both the grants in question must be either wholly reserved or wholly transferred; that is to say, no resolution may be moved to cut down the provision for a reserved subject in order to increase the supply for transferred subjects. We believe that this procedure will enable the budget under the new régime to be prepared and discussed in an orderly and logical fashion, and will eliminate all avoidable points of friction or misunderstanding. It will have been incidentally observed that we wish to modify the procedure indicated, we fancy by inadvertence, in the last sentence of para. 256 of the Report.

Treasury control.

Joint treasury.

74. The withdrawal of external control over provincial finance implies the substitution of effective control within the province. That control in practice must be divided between the finance department (or treasury) of the province and the legislative council. We deal first with the finance department and its functions. The responsibility of this office will in the future be much greater than it is to-day. With two final authorities for the preparation of projects and for the sanction of expenditure in the same budget, provincial finance must become more complex and more delicate. A preliminary, but most important,

point for decision is whether each half of the government is to have a finance department of its own. We have given the matter our most careful thought, and are convinced that the department in each province must be one and undivided. As between reserved and transferred subjects there can only be but slight differences of procedure; and the standards of propriety in collecting and spending public money—the ideals, in short, of financial probity—must be identical in every branch of the administration. Convenience also and economy both suggest that the whole financial control should be under one roof, especially as at the outset the work on transferred subjects will be a small part of the whole. The department should be a reserved one; but we consider that, at least in large provinces, there should be, in addition to the regular financial secretary, a second or joint secretary whose business it will be to deal with all financial cases coming from departments under the control of ministers. The selection of the officer to fill this appointment would be made by the Governor in deference, wherever possible, to any choice expressed by ministers. He would be their financial adviser in all transferred subjects; he would be wholly at their disposal to help them on the financial side of their work; he would prepare their proposals of expenditure and the like for presentation to the finance department, and would see that their cases were properly represented there. We hardly think that our proposals can be misinterpreted into any suggestion that a unified finance department is meant to detract from the authority of ministers in managing their own portfolios. The Bengal and Bombay Governments, however, have shown some nervousness on the point; and, in order that there may be no misunderstanding, we may explain briefly what we understand to be the functions of the finance department or treasury. It is in no sense an over-riding power. It is not a body that either dictates or vetoes policy. It watches and advises on the financial provisions which are needed to give effect to policy. It criticizes proposals and can ask for further consideration. It points out defects in methods of assessment and collection; it can demand justification for new expenditure from the department which proposes it; it can challenge the necessity for spending so much money to secure a given object. But in the last resort administrative considerations must prevail. If there is a dispute regarding expenditure on a reserved subject, the finance member may urge that it is wrong or wasteful or that it will entail fresh taxation. But he can be overruled by the Governor in Council. If the dispute relates to expenditure on a transferred subject, the finance department may similarly expostulate. But the minister in charge of the particular subject can overrule it and its objections, taking the full responsibility for so doing. In England, he would, in theory, have to get the Cabinet to endorse his view in such a case; in an Indian province he would need only the concurrence of the Governor. As practice crystallizes and grows familiar, we are confident that ministers will find friendly and valuable help from the finance department in developing their schemes of expenditure on sound and economical lines.

Its working.

75. We trust we have made it clear that the relations of the provincial finance department with both parts of the government will be precisely the same. We would emphasize the necessity for strengthening its position as

external control is withdrawn. Its duties, as we conceive them, may briefly be described as below :—

(*i*) In its association with the revenue departments, the finance department will exercise steady pressure in the direction of efficient assessment and collection of every kind of public due.

(*ii*) It will examine all schemes of new expenditure for which there is a proposal that budget provision should be made; and an invariable rule should be established that no new entry may be made in the budget until it has been scrutinised in the finance department, which should certify that it has been examined by it. At this stage the duty of the department is to discuss the necessity for the expenditure and the general propriety of the proposal. It has also to advise as to the provision of the requisite funds; whether they can be met from the existing resources of the province, or whether they will involve new taxes; or in the alternative whether they constitute a proper purpose for borrowing.

(*iii*) The next duty of the department may conveniently be described in the words of rule 13 of the rules in force for our own executive council, namely :—

"No proposal involving an abandonment of revenue for which credit has been taken in the budget, or involving expenditure which has not been provided for in the budget, or which, though provided for, has not been specifically sanctioned, shall be brought forward for the consideration of the government, nor shall any orders giving effect to such proposals issue, without a previous reference to the finance department."

Insertion of a project in the budget means that the legislature gives the proper executive authority power to sanction the expenditure; it is not an order to disburse the money. That order must be given separately by the duly empowered authority; and in the case of any new or important expenditure, it should not be given without prior consultation with the finance department.

(*iv*) The finance department should be employed as a safeguard against the influences which make for the lavish growth of public appointments. We should like to see it prescribed in the new Act that no public office is to be created or its emoluments determined without prior consultation with the finance department. This will insure publicity and need not debar the delegation of minor powers of appointment.

(*v*) The finance department must be in a position to check expenditure for which there is no budget provision, or which is in excess of the budget provision, whether it is covered by the appropriation of savings from another budget grant or not. The matter is one which can be examined more satisfactorily in connection with the Audit and Exchequer Bill which we hope to draft for your approval. Stated very generally, our intention is that the purposes of the budget may not be seriously departed from without the knowledge of the finance

department, which will of course be responsible for interpreting its provisions in a reasonable spirit.

(vi) Finally the finance department must be in intimate relations with the audit. It will have to advise the auditor regarding the scope and intentions of schemes of expenditure, having itself been apprised of these in its discussions with the executive authority and the preliminary stages. It will be consulted by the auditor about the detailed application of financial principles and the interpretation of financial rules. It will keep him informed about prices, local rates of labour, and many other facts which are relevant to his audit, but of which he has no direct source of knowledge.

Control by legislature.

Public Accounts Committee.

76. The second guardian of financial propriety in a province will be its legislature. The power of this body in matters financial will grow with time and experience. We recommend that at the outset its work should be scrutiny and recommendation rather than a definite authority to sanction or disallow expenditure. The latter will come when further political progress arms the legislature with the power of voting supply and passing Appropriation Acts; at present it would be premature. We suggest that it should be the constitutional duty of the legislative council in each province to appoint a committee on public accounts, and to receive reports from it, dealing with them, in so far as may be necessary, by resolutions which will not be mandatory. Before this committee we propose that all reports from the finance department on excesses or reappropriations exceeding a limit which will be prescribed by rule should be laid, as well as all audit reports with the orders of the executive authority thereon. It will be for the committee to advise upon all surcharges and disallowances of the auditor, and upon the action which the executive authority has taken upon them. It will also advise regarding serious departures from the budget provisions. In all matters referred to it the committee will be assisted by the finance department of the province; and that department should have the right of being represented when its own or the audit reports are being considered. The advice of the committee will, as we have already suggested, take the form of a report to the full legislature.

The audit.

Audit system.

77. Standing behind all financial control there must be an effective audit. At present our audit, though it has been greatly improved of late, has its shortcomings. It is obsessed by codes and formalism, and has too little practice in challenging the wisdom or propriety of expenditure which has been incurred under the colour of orders from competent authority. These defects arise largely from its association with an exceedingly elaborate system of accounts and technical safeguards against misfeasance. They can be remedied, for it is the opportunity rather than the spirit that has been lacking. So far as the structure of the audit machinery is concerned, our first measure will be to relieve the audit officers from the currency and resource work that now falls upon them. This change

will take time and careful working out. We are satisfied that audit and accounts must hang together and must in present conditions remain under central authority. The provincial administrations must continue to receive compilations of their accounts and all other similar information which they require from the audit officers; but the latter, in all questions of control, discipline and method, will be entirely independent of the local governments. To secure this independence we advise that the Auditor General be given a statutory position by the new Act; and similar statutory protection should be afforded to his audit staff in the provinces, either by regulations under the Act or separately by the audit and Exchequer Bill which we contemplate. There will follow a vast amount of detailed work in clearing the tangled mass of financial codes and regulations. The existing orders will have to be simplified and harmonised, and referred directly to defined principles. All this work we propose to undertake as soon as we are free from the mere urgent preoccupations of the reforms scheme. The underlying notion will be two-fold, first, we wish to give audit officers leisure from laborious routine to accept the far greater responsibility which will now be laid upon them, inasmuch as it will impose more of a strain upon their discretion and judgment and less upon mere mechanical industry. It will also be most advisable that the superior audit officers should move about and see for themselves the working of the establishments whose accounts they inspect. Second, we desire to foster a greater initiative in audit. In place of the formal examination of authorities and of rules, the work should be conducted with greater regard to the broad principles of legitimate public finance. The audit will not only see whether there is quoted authority for expenditure, but will also investigate the necessity for it. It will ask whether individual items were in furtherance of the scheme for which the budget provided; whether the same result could have been obtained otherwise with greater economy; whether the rate and scale of expenditure were justified in the circumstances; in fact, they will ask every question that might be expected from an intelligent tax-payer bent on getting the best value for his money. The audit officers will also devote more of their time to looking into the manner in which the various executive officers are undertaking their more importtant financial responsibilities. In saying all this, we are conscious that our observations are very general, suggesting intentions rather than formulating specific recommendations. We are anxious however to show how we propose that the existing audit arrangements should be fitted for the more important functions which will soon be expected of them.

Audit reports.

78. With the audit rehabilitated as we should wish, the procedure for making its criticism effective will be as follows. Each audit report which deals with provincial subjects will be submitted to the Governor, for communication to the executive authority concerned, whether member of executive council or minister. Copies will go simultaneously to the finance department of the province, which will take orders upon the report. In the case of reserved subjects, the Governor in Council will dispose of the report and will have power to condone surcharges and disallowances, except where they relate to definite infringement of orders from the Secretary of State or the Government of India. In the case of transferred subjects,

ministers will have an exactly corresponding position. But in each case, the finance department will place the report and the orders upon it before the committee on public accounts. Where orders from the Government of India or the Secretary of State have been infringed, it will refer the matter to those authorities through the Auditor General. Otherwise the committee on public accounts will have the right to examine all audit objections and executive orders passed upon them, and to make recommendations to the legislature. It will then be for the legislative council to decide whether to move resolutions in regard to any matter which in their judgment requires more discussion or publicity. Incidentally, the same procedure will be open to them in regard to excesses over budget grants or re-appropriations which have been reported by the finance department. Resolutions on these matters will stand on exactly the same footing as resolutions on the budget; *vide* para. 73 above. In this sketch of procedure there is nothing that derogates from the right of a provincial audit officer to bring financial irregularities to the notice of his local government or of the Auditor General to bring to the notice of the Secretary of State any matter in which he considers that the action of a local government has been perverse or contrary to public interests.

Legislative arrangements.

Grand committee plan approved.

79. We pass on to consider the arrangements for legislation. We have just received but have not considered the proposals of Lord Southborough's committee as regards franchises and the composition of the legislative councils; and on these heads, therefore, all that we need say is that we accept the proposals that the provincial councils should be constructed with substantial elective majorities. The question remains how the executive government should be enabled to procure the legislation which it deems necessary. So far as transferred subjects are concerned no difficulty arises. The principle that ministers shall be amenable to the legislature means that they will depend upon the will of the majority in that body for the laws which they want; but we agree that the Governor in Council must be provided with some means of securing the legislation which he thinks essential for the reserved subjects. We agree further that the idea of relying in such cases on legislation by the Government of India is impracticable for the reasons given in para. 248 of the Report. Most of the local Governments accept in principle the proposals for proceeding by grand committee. The Madras Government are alone in proposing that if a government bill is rejected or modified in vital particulars, the government should resubmit the bill in such form as they think necessary with the intimation that they consider its passage without modification essential, and that after the bill had been reconsidered by the council it should be open to the Governor setting aside any amendments to declare it to have passed into law. We recognise that this plan for passing what may be described as permanent ordinances, which is, we believe, akin to the arrangements of the Egyptian organic law, presents the advantages of simplicity and candour. It avoids any pretence of recourse to majority support. But it does not seem to us a practical proposal. Any attempt to legislate in opposition to the wishes of the legislative council must necessarily involve difficulty; but the best hope of minimising the difficulty is in

employing the means which are as nearly as possible those to which people are already used. The grand committee plan approaches most nearly to that requirement, and therefore in spite of its additional complexity we prefer it, not merely to the Madras proposal, but also to the alternative proposals put forward by the Government of Bombay and by Sir Reginald Craddock that government legislation should be effectively passed by something short of a positive majority.

Modification proposed of composition.

80. There is, however, a strong feeling amongst local Governments that the procedure has been made too difficult, and that the majority offered to government is not merely the smallest possible but also depends uncertainly upon the doubtful solidarity of a number of non-official members. In practice the nominated members for the grand committee would be chosen probably from the nominated or from the European elected members. In theory the nominated members sit for representative purposes, and since the grand committee is in each case to be constituted with reference to the subject matter of the bill, the government ought to select members for it, not because it feels sure of their support, but because they are interested in the measure. We fear, however, that the executive would be drawn into violating this principle in order to obtain safe supporters. Five out of the local Governments consulted think that even so the margin of security is too fine. We feel the force of this criticism. We agree with the Government of Bengal that there is no danger that the Governor will use the grand committee lightly or heedlessly. Not merely will he be guided in this respect by his instructions (para. 252) but he will also be checked by the prospect of difficulty with his ministers and with the legislature. If therefore the situation is such that he deliberately decides to encounter these obstacles we consider that he ought to be secured from prospects of failure. The proposed composition of the grand committee does not, in our opinion, place the government in as favourable a situation as it occupies in the existing councils; and therefore we recommend that in each province the grand committee shall be so constituted as to reproduce the existing proportions of elected, nominated and official members in the provincial councils. We are in communication with local Governments and shall present our detailed proposals to you in our second despatch.

Certificate in reserved subjects.

81. Our next recommendation concerns the proposed certificate power. It has been pointed out that the formula proposed in para. 252 of the Report comprises two sets of circumstances which are not identical or of equal importance. As matters stand the Report proposes that on reserved subjects the Governor should certify a bill in two different sets of circumstances, (1) if the legislation is necessary to secure peace and tranquillity and (2) if it is necessary for the discharge of the Governor's responsibility for reserved subjects, even if no question of peace and tranquillity arises. It seeems to us that the latter condition absorbs the former. Clearly it is of the utmost importance to determine in what circumstances the Governor may use his powers of certificate. In so far as he is precluded from using them, then in respect of reserved subjects the government, itself irremovable by and free of any responsibility to the legislature, would be unable to secure

from the legislature the bills which it wanted. This would bring about precisely the situation to which Congress League proposals tended. That situation was criticised in paras. 166-167 of the Report and we accept the arguments adduced therein as conclusive. It follows that unless this part of the proposals is to be left open to the objection taken to the Congress-League scheme, and again in para. 22 above to the proposals of the majority minute by Heads of provinces, the Governor's power of certificate must be freed from embarrassing restrictions. He must, as para. 252 appears to contemplate, be free to certify any bill that is introduced on a reserved subject, if he thinks such a step necessary, and we advise that the new bill should be framed accordingly.

Proposed appeal set aside.

82. The Report proposes that during the initial discussion in the legislative council it should be open to the council by a majority vote to request the Governor to refer to the Government of India, whose decision on the point should be final, the question whether the certified bill deals with a reserved subject. Some local Governments have criticised this proposal on the ground that such appeals would always be insisted upon, and that to allow them would impair the Governor's authority and increase the difficulties of his position. The majority minute by the five Heads of provinces takes the same view. We admit the cogency of these objections. We notice that the reference to the Government of India is not intended to determine the propriety of the certificate but only the question of fact, about which in most cases no doubt can reasonably arise. We think therefore that there should be no appeal either from the Governor's original certificate or from any intermediate certificate, such as is contemplated in para. 254; and also that there is no need for the Governor to make any previous reference to the Government of India before certifying a bill.

Mixed legislation.

83. As regards para. 253 of the report the Punjab Government proposes that the final debate in full council on a certified bill should be dispensed with. It suggests that general principles will have been sufficiently discussed in the preliminary debate, that competent critics will have had their opportunities in the grand committee, and that the concluding debate must be expected to be not only infructuous but conducted without a sense of responsibility. We feel, however, that to omit the final debate might render the procedure less acceptable; and for this reason, with the exception of Sir William Vincent, who agrees with the Government of the Punjab, we accept the proposals as they stand. As regards para. 254 of the Report, however, we suggest that before the procedure in respect of mixed legislation can be satisfactorily determined, it is necessary to be clear as to the Governor's responsibilities towards it. The Report proposes that there should be a power of certification when a Bill or amendment trenches on reserved subjects. It seems to us that rather more is required. Under his instrument of instructions the Governor will have certain peculiar responsibilities which are not identified with the reserved subjects. The maintenance of peace and tranquillity, for instance, cannot properly be treated as a reserved subject or indeed as a subject of any kind. It is a general responsibility involved in the conduct of the government. We think therefore that a bill, which is so unpopular with some section of the community as to be likely to

provoke disorder, ought to be certified, if necessary, not merely on the narrow ground that reserved subjects are involved, because its operation may lead indirectly to an increase of the police, but simply on the broad ground that the public tranquillity is at stake. The Governor ought to be able to say " I consider that this proposal perceptibly affects the peace and safety of my province, and therefore I cannot assent to its being discussed otherwise than by a grand committee." We would in fact treat the Governor as having both a departmental responsibility for the reserved subjects and also a general responsibility for the peace, safety and tranquility of the province, irrespective of any subject. If both these responsibilities are laid upon him, what powers will be required in order to discharge them properly ? It seems to us that he should be able either to stop at any stage, whether antecedent to a actual introduction or after introduction, any proposal for legislation on transferred subject which invades the matters, as defined above, for which he is responsible ; or, if the legislature agrees, to take such a proposal in grand committee; but inasmuch as the main object of the proposed legislation will be the concern of ministers, he should not be empowered to force it into grand committee without assent of the legislative council. It follows that we accept the procedure suggested in paragraph 254, subject to the modification that the Governor may certify any Bill or clause, or amendment of a Bill, dealing with transferred subjects if it affects either (1) his responsibility for the peace, safety and tranquillity of his province or (2) the interests of a specified reserved subject.

Assent, dissolution, etc.

84. We agree with the proposal that the Governor should have power at any time to dissolve his legislative council. The value of this safeguard will grow with the growth of responsibility in the electorate, but it cannot for some time be expected to be very great. Moreover as the Bengal Government point out, the effectiveness of dissolution really depends upon the responsible character of the administration. It will not be possible for an official Government to take the field in an electioneering campaign ; nor is it desirable that it should do so and thereby acknowledge some measure of amenability to the voter. It will also be necessary to provide, either by the statute or rule, against any undue delay in constituting the new legislature after the dissolution of the old. We agree that the assent of the Governor and also (for reasons which we shall develop in our next despatch) that of the Governor General, as well as that of the Crown, should be necessary to all provincial legislation. We agree that the Governor should have power to return a Bill for further consideration : and, again to anticipate our next despatch, we would add that in circumstances to be defined by rule he should be empowered to reserve certain provincial Acts for the assent of the Governor General. We agree that the Governor General should have power to reserve any provincial law for the Royal assent.

Upper houses.

85. In paragraph 258 of the Report is discussed the question of establishing upper houses in the provincial legislatures. The view taken by the authors is that while the idea had some theoretical advantages the practical objection was serious. It was thought that most provinces would be unable to provide suitable members for two chambers ; an upper chamber largely composed of the representatives of landed and moneyed interests might

prove too conservative; landed proprietors might be discouraged from seeking the votes of the electorates; and the delays attendent on legislation in two houses would be troublesome. Yet it was recognised that, when provincial councils approached nearer to parliamentary form the need for revising chambers might be the more felt, for which reason it was suggested that the statutory commission should examine the question further. These suggestions have attracted comparatively little notice in the opinions received. Some of the landowners' associations have urged the establishment of second chambers in which their interests would be strongly represented. Progressive opinion on the other hand inclines to regard a second chamber as an inconvenient encumbrance. It is apparent that a bicameral system would throw additional burdens on the local Governments and complicate the business of administration, which may partly account for the lack of interest shown by local Governments in the idea. It is, however, fairly clear to us that at the present stage the proposal is not a practical one; and the only point for consideration is whether, as two local Governments have suggested, powers should be taken from the outset of the reforms to establish second chambers at some future date when the need for them has become clear. It is argued that sooner or later the necessity must arise, and that unless provision is made for it from the beginning any subsequent attempt to do so will excite opposition. It seems to us probable, however, that the constitutional development of India may hereafter necessitate legislation by Parliament, at all events after the report of the first statutory commission. We have at present very little ground for saying that second houses will be required for the provinces. We do not think that in omitting to provide for their establishment now we are forgoing any material safeguard.

Presidency of the Legislative Council.

86. Closely connected with the working of the legislature are the matters discussed in paragraph 236 of the Report as regards the control of business in the legislative council. The first proposal, that the Governor should remain President of the council, is generally supported by local Governments. Among non-officials there is some difference of opinion, and some political associations favour an elected president; but for the reasons given in the Report we are persuaded that the Governor ought to preside. The proposal that the Governor should nominate the vice-president is also generally accepted; but the suggestion that for some time his choice should be made from among the official members has encountered some criticism. We agree in this matter with the authors of the Report for the reasons which they give.

Rules of business.

87. The next proposal is that the existing rules of procedure should for the time being continue in force; but that they should be liable to modification by the legislature with the sanction of the Governor. This matter appears to us to require further consideration. There are at present four sets of rules regulating the business of the provincial legislative councils. Three are made under section 80 (3) of the Act and one is based on section 83. At present the executive makes the rules for questions, resolutions, and budget discussions; and in case of any new councils constituted after 1915 the executive also makes the rules of legislative business, but the legislature, with the sanction of the Governor, can

alter them, although the Government of India may disallow such alteration. The intention of the Report evidently is that the new councils should take over the existing rules and alter them with the sanction of the Governor. But the present rules comprise both matters of a constitutional nature and matters of mere procedure. The new constitution cannot come into effect until the rules have been altered. It seems to us, therefore, that in future there must be two different sets of rules. The first would be fundamental, and would contain all matters affecting the powers of the different elements in the constitution. These should be made by the Secretary of State in Council and should be laid before Parliament, and should be alterable only by the Secretary of State in Council in the same way. The second would be subsidiary rules, or rather standing orders, governing mere questions of procedure. Since fresh standing orders will be necessary, they should be made in the first instance by the local Governments, and thereafter they should be alterable by the legislative council with the sanction of the Governor. It seems necessary that at the outset the new orders should be made by the executive, because otherwise the legislative council might create a difficulty by declining to make them except exactly as it chose. We cannot admit the claim put forward by some non-official critics that the legislative councils should have an unrestricted right of altering their own rules.

Use of the Vernacular.

88. The Punjab Government has raised an important point in paragraph 19 of its letter, regarding the propriety of conducting debates in future in vernacular. This matter has a bearing both upon the question of the Governor's presiding in person and also upon the effective control of business. Speeches in vernacular are allowable in the legislative councils now; but they are not often made and they can hardly be said to be encouraged. We agree with Sir Michael O'Dwyer that it must be anticipated that there will in future be a larger proportion of members who know little English, for which reason it is imperative that the use of the vernacular in debate should not be discouraged. But the question is by no means free from practical difficulty. Assuming that in future there are three groups in council, (1) the official members, (2) the rural members and (3) the representatives of the Indian educated classes, it will practically be only the third of these who will enjoy the advantage of a fluent knowledge of both languages; and it is possible at least that they may be tempted to turn such a position to their advantage in various ways which it would be easy to suggest. It seems to us difficult, however, to provide formal remedy and we think that the matter must be mainly left for the Governor to deal with. In the last resort he might be armed by a rule with a power to call on any member, who is known to him to be proficient in either tongue, to address the council on any given occasion in one language or the other.

Questions, resolutions and privilege.

89. The proposal that the right of asking supplementary questions should be extended to members other than the asker of the original question is generally accepted. In this matter we should prefer to follow the House of Commons practice as closely as possible, and to give to the President full powers to check any abuse of the privilege. We think that no answers to questions should be furnished to members

before the question has actually been put in the council. We agree that the Governor should have power to disallow questions, the mere putting of which would be detrimental to the public interests, and that his rule should specifically apply to supplementary questions. We agree also that the Governor's discretionary power of disallowing resolutions should be maintained. Some local Governments have raised the question of limiting the time for non-official business, and in particular of restricting the time allotted for discussion of resolutions. We agree that the rules must give the Governor as President power to allot the time available for the different classes of business and to prescribe the order of business; and it will be for consideration whether he should not have also a power of closure. We have considered whether power should be taken to take cognizance of and to punish breaches of privileges. At present the standard of conduct in these respects is capable of improvement; but we attribute this partly to the sense of unreality which has attended the business of the legislative councils in the past. There are objections to empowering a non-parliamentary executive to deal with such matters, and we think that the better course may be to leave the vindication of the legislature's privileges to the new sense of self-respect which may be expected to be developed in the councils as a result of coming changes. We accept the proposal that members of the future legislative councils should drop the style of Honourable.

Official members' vote.

90. One more matter connected with the conduct of business may be mentioned here. In paragraph 233 of the Report it is suggested that as a matter of practice official members should abstain from voting on transferred subjects, while on other matters official members should have freedom of speech and vote, except when the government considers it necessary to require their support. There is some diversity of opinion among local Governments upon these suggestions. It is urged that for some time to come administrative experience will continue to be vested chiefly in the official members and that as full members of the council and also, in some measure, as representing the views of the masses they should have a right, not merely to express their views, but to give point to their opinions by the exercise of a vote. As regards the second proposal the Government of Bengal feel doubtful whether in practice it will often be feasible to relax the obligation of official members to support the Government; indeed they think that it is only when the Government preserves an open mind upon any question that such freedom can be allowed. Our own view is that as regards transferred subjects it is undesirable to set up a convention, which may have the effect of emphasising the cleavage between official and non-official members; and that the existing convention by which official members invariably support government has been too rigidly observed. In both cases, therefore, we think that the official members of the legislature should have freedom of speech and vote, except in so far as the Government in exercise of the responsibility which it feels towards the particular question before council thinks it necessary to give them instructions.

Effect of resolutions.

91. The next subject discussed in the Report is the effect of resolutions. The arguments in paragraphs 168-170 appear to have had some success in convincing the more informed section of Indian political opinion that it is

impossible to make resolutions of binding effect. This conclusion has been accepted by the non-official members of two provincial legislative councils. The opinions received do indicate, however, that there are still many persons with whom such arguments have not availed; but these have adduced no reasons of weight which make it necessary for us to discuss the question further. So far as reserved subjects are concerned resolutions by the legislature will continue to be recommendations addressed to the Governor in Council, and we do not think it expedient to indicate the extent or to suggest the circumstances in which the government should comply with them. This matter must be left to be settled in actual working. The practical effect of resolutions upon transferred subjects will be further examined when we consider the administration of such subjects by the Governor and ministers.

Standing Committees.

92. It is now time to consider certain devices proposed in the Report which are intended to set up a closer connection between the executive and the legislature. The first of these is the proposal to establish standing committees, elected by and from the legislature, to the departments under each member of the executive. The idea is that such committees would be purely advisory, and would ordinarily be consulted on questions of policy or new schemes of large expenditure, and on the annual reports. The majority of provincial Governments accept the proposal; non-official opinion is not a little divided. Critics urge that the committees will impede business, and induce delay, that they will weaken the sense of responsibility of the executive, that they will open the door to intrigue, and that their purpose can better be served by advisory committees appointed to deal with particular questions, and finally that they will be difficult both to constitute and to assemble for business. The Government of Bengal point out that when a complete system of responsible government has been established there will be no place for such committees. They demur to the establishment of a finance committee except for purely budget purposes, and they affirm that it will be impossible to enforce the obligation of respecting confidence upon which the Report lays stress. It has also been urged that the association with the administration of elective committees, particularly on reserved subjects, however limited the original scope of their functions, involves a departure from the main framework of the Report. Those who take this view believe that it will not be possible for the committees once instituted to be kept on a purely advisory basis. They think that the power of the elective principle will assert itself and that, as has happened in other countries, where the committee system flourishes, these bodies will tend to grow into a rival executive. These apprehensions seem to us exaggerated. This idea of standing committees was first put forward as a means of associating the legislature with an irresponsible executive; and even after the appointment of ministers had been proposed, it was decided to retain them as a means of providing a certain number of people with some acquaintance of administrative methods, as a means of training them to fill the office of ministers. We propose, therefore, to retain them; but we wish to make it perfectly clear that we do so only for educative purposes. We do not intend that the committees should come to control the administration and we think that, if any attempt is made to do so, it should be resisted from the outset. Moreover we

would leave to the Governor entire discretion to determine to which departments, if any, they should be assigned and to decide the matters which come within their cognizance.

Council Under-Secretaries.

93. The second suggestion which the Report makes with the object of bringing into closer touch the executive and the legislature relates to the appointment of under-secretaries from among members of the legislative council. This suggestion has been favourably received by most of the Governments which have noticed it, and it has further gained much non-official support, although there is a strong body of opinion that such appointments should be restricted to the elected members. The Government of Bengal take emphatic objection to the proposal. They think that the introduction of under-secretaries appointed from the council would complicate an already difficult situation, and that the responsibilities to his constituents of an under-secretary who is an elected member may be a cause of embarrassment. It has further been put to us that an arrangement, by which members of the legislature (and possibly elected members) are attached to and share in the administration of the various departments, involves a departure from the scheme of the report, and is likely to accelerate the process by which the legislature will assert control over the executive. Those who take this view contend that elective under-secretaries must like ministers be amenable to the legislature; that consequently their association with ministers in transferred subjects merely means an informal addition to the number of ministers, while their introduction into the reserved departments involves the admission of a foreign element into the official control of these. We set down these objections, not because we agree with them, but because they at all events emphasise the need for making our intentions clear. We do not intend that these under-secretaries should share in the administration or be regarded as extra ministers. Our intention merely is that members of council or ministers should be able, if they choose to appoint some one from the legislature, to assist them in expounding to the legislature the departmental view. Such appointments will be entirely optional; it will be open to the member of council or minister, if he prefers, to choose a nominated or an official member from the legislative council. The appointment should be honorary, for if salaries were attached to these appointments and were voted by the legislature, it is evident that the holders must become amenable to the wishes of that body. We desire to give these appointments as informal a character as possible. We consider that it is not necessary to make any legal provision for them. It should be left in each case to the local Government to determine whether such appointments should be made, and to regulate the duties of the office.

The Governor in Council.

The Governor in Council; administration.

94. We have have now laid before you an outline of the various parts of the provincial constitution. It is time to describe how the two portions of the machine will work, in the first place severally and secondly in unison. Let us consider first the administration by the Governor in Council of the reserved subjects, his responsibility for which

is set forth in paragraphs 213, 215, 218, 222, 223, 292 and 354 of the Report. So far as the mere business of administration is concerned there will, in purely reserved subjects, be practically no change from the existing practice. In most cases the member in charge will be able to dispose of the question coming before him as it will represent only some detail of an accepted policy. In some cases he will have to consult the Governor or his colleagues, and if the case is of importance, or if there is a difference of opinion, he will ask the Governor to take it formally in executive council. The Governor will also take this action when he sees fit on his own initiative; and though the Governor will hold no portfolio of his own, the permanent head of the department will always be able to invite the Governor's attention to any case which he thinks the Governor should see. When in any of these ways a case comes before council it will be decided by the majority vote; but the Governor will have power to issue any order against the wishes of his council in any case in which "the safety, tranquillity or interests" of his province, or a part thereof, are or may be, in his judgment, essentially affected. Any order so issued will be the order of the Governor in Council.

Legislation.

95. Secondly, as regards legislation it is evident to us that in all difficult cases the working of the system will depend very largely on the certificate power. In this respect matters must be left mainly to the Governor's discretion. His instrument of instructions can only guide him in very general terms; but he will of course realize that in so far as he does not use his certificate power he must be prepared to accept the shaping of his legislation by the majority of the legislative council. On the other hand, although we propose that there should be no appeal from his decision, the Government of India will retain the legal power of controlling him.

Supply.

96. The division of the provincial resources between two halves of the government, which we have proposed in paragraph 73 above, will make it easier for the Governor in Council to finance the reserved subjects than if the supply for them were likewise dependent (except for his power of restoration) upon the vote of the legislature. Resolutions upon the reserved portion of the budget as on matters of administration will be advisory only, and it will be left to the Governor in Council to determine whether or not to give effect to them.

The Governor and ministers.

Rules of business.

97. Now let us consider the handling of the transferred subjects. The Report proposes (paragraph 219), as we think rightly, to impose a particular personal responsibility upon the Governor in respect of their administration: and this raises questions which we shall further examine in a subsequent paragraph. It is clear, however, that such responsibility makes it necessary that there should be some rules of business to regulate the disposal of cases in the transferred subjects. Such rules should allow cases of minor importance to be disposed of by or under the authority of ministers, and should require that cases of major importance are laid before the Governor. They should ensure that the Governor is promptly informed of cases disposed of by ministers, and they should

provide that the Secretary or permanent head of the department is empowered to bring to the Governor's notice any case which he considers that he should see. It may be expected that the Governor will direct all cases of particular types to be brought to him as a regular practice. It is a matter of some difficulty to decide whether the rules of business should recognize any collective responsibility on the part of ministers in cases where there are more than one. It seems to us inevitable that among ministers the habit of consultation and joint action will develop and indeed should be encouraged. The analogy of cabinet procedure, however, cannot hold good, for so long as the relations between the Governor and his ministers are as we have described them, there can be no prime minister. Meetings which ministers may hold among themselves will not acquire the authority of cabinet meetings ; and we do not advise that the rules of business should attempt to do more than to regulate the relations between the Governor and his individual ministers. At the same time we should expect that, as a matter of practice though not of rule, the Governor will regularly meet his ministers in consultation.

Relations with legislature.

98. Ministers' administration of transferred subjects is difinitely meant to be conducted in accordance with the wishes of the legislature. We do not propose of course that resolutions should be binding upon them, or that their authority should be more than that attaching to motions in the House of Commons, where in respect of any motion that is carried it is left for the government to decide whether the House is likely to insist upon enforcing its wishes by any of the ordinary means open to it. We recognize, however, that in the new legislative councils the responsibility of ministers cannot but be affected in practice both by the presence of official members and by the communal character of much of the representation. We think therefore that the measure of ministers' dependence upon a majority support must be left to define itself in actual working. If ministers encounter a hostile vote they must no doubt seriously consider their position. We think that in such circumstances the advice of the Governor will be of great value to them. The probability is, we anticipate, that owing to the entire novelty of representative methods in India, ministers may be inclined to show too little deference to a vote in the legislature rather than too much ; and in that case the Governor will at all events be in a position, if he thinks necessary, to enforce the traditions of responsible government by requiring ministers to resign.

Legislation.

99. As regards legislation the position will be similar. We propose to make no change, except as provided by the certificate procedure, in the existing rights of private members to bring bills before the council ; but we trust that the working of the new legislative councils will tend to follow well-established lines ; that most of the important legislation on transferred subjects will come to be recognised as the proper concern of ministers who alone have the requisite knowledge to formulate policy ; and that if their measures are defeated or altered upon any material point ministers will again be confronted with the duty of considering their position, while the Governor will be at hand to give them good counsel in the matter.

100. The budget of the transferred subjects will be explained by ministers in the legislature, where it will not be voted or passed. It will be open to members to move resolutions on any matters upon which they desire to see the provisions modified. We think that no proposals for extra expenditure should be addressed to the legislature other than by a minister: and we are desirous that, as far as possible, the restraints upon proposals for extra expenditure which prevail in the House of Commons should be observed. We are prepared, however, to acquiesce in the continuance of the existing practice in the present councils by which any member can propose the reappropriation of sums from one budget head to another. We should limit this so as to ensure that no such transfer as between a reserved and a transferred grant may be proposed; but to withdraw the privilege entirely, before full responsibility is reached, might be misunderstood in India. We have already advised that no resolution on the budget should have any binding force; though, if it is carried against a minister, it may compel him to consider the propriety of his remaining in office.

Supply.

101. It is now time to consider the vital matter of the Governor's relations with ministers. The report says. We do not contemplate that from the outset the Governor should occupy the position of a purely constitutional Governor who is bound to accept the decision of his ministers. ....We reserve to him a power of control because we regard him as generally responsible for his administration, but we should expect him to refuse assent to the proposals of his ministers only when the consequence of acquiescence would clearly be serious." Let us consider rather more closely what this would mean in practice. When a case comes to the Governor in which he is doubtful about the order proposed by the minister he will discuss it with the minister, or possibly if he thinks fit with both ministers. There will be no voting, and no formal over-ruling as in section 50 of the Act. The Governor will advise the ministers as to the difficulties which he feels, and it may be hoped that the upshot will be a decision which ministers can defend and the Governor accept; but, if the Governor thinks that the minister is going seriously wrong, he may refuse to issue the proposed order, or he may require an order to be issued which differs from it, or he may direct action to be taken where the minister has proposed no action. We quite agree that the circumstances in which the Governor should take such action should specifically be defined in his instrument of instructions, which should express as definitely as possible the peculiar responsibilities with which Parliament has invested him. We are decidedly of opinion that the instrument of instructions should be a published document. We hope to propose to you a draft of its contents, as soon as we have received the report of Lord Southborough's committee; but, as some local governments have pointed out, any formula that can be devised must be framed in general terms, and its efficacy must largely depend upon the Governor's vigilance, judgment and good sense. When an order ultimately issues, whether it is the original proposal of the minister or the result of the Governor's intervention, it will issue as an order of the Governor acting "after consultation with" his ministers. The expression "on the advice of" is not in accord with what

Governor in relation to ministers.

is proposed; "with the advice of" might be misleading; and we should prefer to avoid misconception by refraining from the use of words which imply specifically a closer approach to the position in self-governing countries than is actually intended.

Settlement of differences.

102. When full allowance has been made for the effect of better understanding and the desire for co-operation, which it may be hoped that the reforms will induce, there still remains the need to consider the possibility that serious differences may occur between the Governor and ministers. We must remember that not only will the former have heavy responsibilities laid upon him for the good administration of his province, but he will also be the vehicle of any orders issued by the Secretary of State or the Government of India in the exercise of their general directing and controlling authority over transferred subjects. That authority is indeed to be restricted to the utmost. We agree entirely with the principle suggested in paragraph 291 of the report that in respect of matters in which responsibility is entrusted to representative bodies in India Parliament must be prepared to forego the exercise of its own control; and when we come to deal with the recommendations of Lord Southborough's committee, we hope to be able to translate this restriction into definite terms; but whenever the control of superior authority, however restricted, has to be applied in future, we think that it should take the form of directions to the Governor and not of orders to ministers, and that the Governor should give effect to those directions by intervention in the manner which we have already described. In such cases, as well as those where the Governor has of his own motion differed from them, it is possible that ministers may find themselves unable to acquiesce in his action. When a similar position arises in respect of reserved subjects no difficulty presents itself. A member of council, when he finds himself unable to obey an order from a higher authority or an order passed by the Governor under section 50 (2) of the Act, can resign his post; and if he stays on and refuses to obey the order, he becomes amenable to service discipline and may be removed. Ministers however will not be amenable to official authority and therefore to avoid an impasse the Governor must have the ordinary constitutional right to dismiss a minister who refuses either to work in harmony with him or to resign. It is necessary, however, to take the case one stage further. We feel it important to decide definitely how insoluble disagreements between a Governor and ministers are to be concluded; for it is only when this point is reached that our proposed system of dualism is put to the supreme test. A minister, who resigns or is dismissed by the Governor, may have behind him the opinion of the legislature, and accordingly the Governor, being restricted in his choice to the elected members, may find it impossible to appoint successors who will work with him. In that event he would dissolve his legislature; but if the new legislature proved equally obdurate, there would be only one course open to the Governor, assuming (as will occur, we hoped, but rarely) that he felt it impossible either to give way upon the point at issue or to effect a compromise. We think that against this ultimate emergency provision must be made in the scheme; and that the only remedy is for the Governor himself to assume the control of the administration of the departments

concerned, until the causes of the difference disappear, reporting this action and the reasons for it through the government of India to the Secretary of State. The King's government must be carried on; and there must be some effective safeguard against the main danger which threatens the working of the scheme, namely, that differences of opinion between the two elements in the government may lead to a deadlock fatal to the administration. We feel moreover that such a power would also be a valuable deterrent to factious and irresponsible action. We doubt whether such administration by the Governor should be more than temporary; and therefore we would provide that if the Governor is unable within a period of say six months to find ministers who will accept office he should move the Secretary of State through the Government of India to retransfer the portfolio in question formally to the charge of the Governor in Council. It is clearly necessary that the Secretary of State on behalf of Parliament should be armed with power at any time to defeat attempts on the part of the legislature to bring government to a stand-still. If the Governor while temporarily administering a transferred subject were unable to secure for the legislature the supplies required for its service he should be empowered to extend on such service sums not exceeding the total provided for it in the preceding budget.

Joint working of the two parts of government.

Cases concerning both parts.

103. So far we have considered the working of each side of the government without reference to its reaction on the other; but there is a large measure of truth in the contentions put forward by the Bombay Government and others, that many cases, although the department which should decide them is clear, involve the interests of other departments; and for the treatment of such matters it is necessary to make definite provision. When a member of council finds himself with a cases for decision, which concerns a minister's department, it will be his duty to consult the minister, and *vice versa*. If they cannot agree, then before the authority which is regularly seized of the case passes orders upon it, that authority will inform the Governor of the disagreement, and it will be for the Governor in his discretion either to intervene or to let the case take its ordinary course. Moreover if he thinks fit he may summon the member and the minister and attempt to compose their differences. Failing in that he may call in any other members and other ministers or he may convoke his whole government, according to the interests involved or the importance of the case; but the case and its decision will not be removed from the department to which it properly belongs.

Cases of doubtful jurisdiction.

104. So far we have dealt with cases in respect of which the jurisdiction is not doubtful. There will, however, be cases in which the issues are of such a nature that two or more departments cannot agree with which the right of action lies. In such cases the jurisdiction must be settled by the Governor and his verdict must be final; in this respect we entirely agree with paragraph 239 of the Report. But the proposition will not always be simple; in some cases a short discussion may settle the point; but in others the mere decision as to jurisdiction will be plainly seen to carry with it the ultimate attitude of government

towards the substantive question. In such cases therefore where the right of action is either doubtful or in issue, we think that the rules of executive business should empower the Governor to call his whole government together for a discussion of the subject before deciding who is to formulate the orders. It would no doubt be possible for the Governor, after hearing the discussion, to sum up and to dictate the substantive decision, as indeed appears to be contemplated in paragraph 221 of the Report. But we see objections to enlarging the field in which the individual Governor will act as the local Government, and it seems to us that our proposal according to which the Governor would decide only the question of jurisdiction keeps closer to accepted constitutional practice.

Consequential orders.

105. There is one more point. It may happen that a decision taken in one department will necessitate certain action in another department, which the latter objects to take. In this case also there must be some effective means of securing unity of action and of preventing the decision of Government in one department from being nullified by the inertia or opposition of the same Government in another department. We think that for this purpose the Governor must be armed with power to issue orders in a reserved department which are necessitated by a decision which he has approved in a transferred department, and *vice versa*.

Clearer definition of responsibilities.

106. This analysis of the probable working of the new arrangements leaves us to propose a re-statement of the procedure contemplated in paragraph 221. We certainly do not wish to suggest that the Governor may not, at any stage and for any purpose, convoke meetings of his entire government. Indeed we think that particularly in the earlier days of his administration he may find such meetings very helpful, while on many matters of general administrative interest they would be the usual practice. But the application of our fundamental principle that the responsibility of both halves of government must be clear and distinct forbids us to carry their association to the point at which responsibility begins to become blurred. We consider that the Governor should have unfettered discretion in deciding whether to bring together the members of his council and ministers for common business. Moreover our test principle requires that it should be perfectly clear to all concerned by which of the two authorities a particular order is issued. We do not apprehend that less authority would be felt to attach to orders of ministers than to orders of the executive council. We agree with the view expressed in paragraph 259 of the Report that both will have equal authority as orders of government; but the electorate ought to be able, if they wish, to know whence any given order originates. We strongly desire therefore to see the two cases distinguished in some way (whether by a change of style, or by some marginal indication of the authority in possession of the case) that will enable the recipients to recognize which of the two halves of the government is accountable for the decision.

Limitations on "united front."

107. The proposal made in paragraph 222 of the Report that the decisions of the government should be loyally defended by the entire government has attracted some criticism, both as tending to obscure

responsibility and as putting an undue strain upon the individual conscience. We entirely agree that a minister confronted by the legislative council must loyally defend any action which he has taken with the concurrence or at the instance of the Governor. If he has been overruled by the Governor, he may of course resign, after setting forth his personal views; but if he has accepted the Governor's decision without resigning, then constitutional practice clearly requires that he must defend that decision in the legislature without disclosing the difference of opinion between himself and the head of the government. Nor can it be tolerated that he should while remaining a minister attack in the legislature the acts of the other half of the government. Exactly the same obligation in our opinion attaches to members of council; they must not manifest to the legislature their disapproval of acts of ministers which have been approved by the Governor. There must be established a convention by which each half of the government refrains from opposition to the other half. But more than that it seems to us quite impossible to expect; neither half can be required to give active support to a policy which it has not endorsed. We think that when a minister has accepted a course of action which the Governor has pressed upon him, the other half of the government should be prepared to support him if he is challenged in council, and if a vote of "no confidence" is carried against the minister for action which the Governor has approved, the minister would not necessarily resign office until he felt that there was no hope of his receiving future support from the legislature.

Review of these proposals.

108. This completes our picture of the working of the joint arrangements. In view of the criticisms which the scheme has encountered we have felt it necessary to go into these matters at some length. It is obvious that the successful working of the constitutional side of the government will depend very largely, as paragraph 153 of the Report points out, upon the gradual building up of conventions, customs and traditions based upon experience and acquired political habit. There must, however, be rules to bring the two halves of the government into their right relation, and indeed, in so far as the responsibility of the ministers is to be tempered by the Governor's authority, it is apparent that their relations with him must be regulated by rule to an extent which would be intolerable in a completely developed responsible system. Our object has been to indicate the matters upon which rules will be necessary while endeavouring to render them as elastic and discretionary as possible. For the rest we think there is nothing for it but to depend upon practice and the growth of a stable political conciousness in the ministers, the legislatures and the electors. This must be a growth of time; but, for it to grow at all, it must have reasonable scope, and this we have endeavoured to provide.

Summary.

109. At this point it seems desirable that we should sum up our impressions of the working of the machinery as a whole, and of the manner in which it may be expected to fulfil the purposes for which it is designed. The fundamental idea is that the Governor in Council shall be armed with sufficient power in the administration of reserved subjects to discharge the responsibility for them which he owes to Parliament, while ministers

will have the widest liberty to administer transferred subjects according to their own ideals, but in constant sight of, and comparison with, the working of their official colleagues. We do not intend that either side should interfere with the other; and to us it seems that if ministers devote themselves whole-heartedly to the success of their own task, it will provide them with adequate occupation and opportunity to prove their fitness for further responsibility. It would, however, be disregarding the practical certainties of the future to conceive of the reserved and the transferred branches of public business as watertight compartments which will engage exclusively the energies of their respective administrators. The subjects administered by the two halves of the government will constantly touch and often overlap; and occasions for pressing the popular view on the Governor in Council and endeavouring to deflect his policy will be frequent. Ministers will be in daily intercourse with their official colleagues; and if they are men of the right stamp, they will inspire confidence and be often consulted about matters outside their own sphere. The legislature will not hesitate to employ freely its power of expressing itself through resolutions on the conduct of reserved departments. Even in legislation it is to be expected that some Governors will not exercise the same vigilance in the use of their certificate power as others. Standing committees and council under-secretaries may try to develop activities, with which it is not our purpose to endow them. The scheme thus clearly gives the legislature an opportunity of influencing the management of the reserved subjects to a greater extent than the present legislative councils influence the present administration. We must anticipate that, in spite of the fact that ministers will have no responsibility for reserved subjects, there will be a tendency to convert this influence into control. In brief, as we anticipate the course of events, progress towards full responsible government will take two forms. One will be the regular periodic advance, as defined by the statutory commissions, and measured by the further and still further transfer of the once reserved subjects to ministerial control. The other, informal but always at work, will be the increasing influence which the elective principle will acquire over the subjects retained in official hands. But there will be simultaneously a third process, which is not in our programme and which we shall have steadily to resist,—the contsant endeavour to transform influence into ascendancy over those branches of the administration for which the responsibility lies with the official government.

Future consequences.

110. We set these things down, not because we are afraid of them, but because it ought to be perfectly clear what lies in front of us, so that we may shape our conduct accordingly from the outset. The influence of those who represent the electorate is growing now, and will grow. We fully recognise, as an assured consequence of the political developments which we are discussing in this despatch, that even in reserved subjects our administration will have to be conducted with a closer regard to popular sentiment, and with less thought for theoretical efficiency. In many of its methods, our work will lose its peculiarly British characteristics and assume a more definitely Indian type. We view this prospect with no possible disapproval. We trust that, by greater deference to the wishes of the popular representatives, we shall in return secure their more cordial concurrence

in what we regard as the essentials of good government. But over those essentials we must retain unquestioned control. The governing power of Parliament must preserve its vitality. The "superintendence, direction and control" of the Government of India must always be ready for use. The Governor and his official colleagues must employ their powers resolutely to prevent any deleterious lowering of the standards and ideals of the administration which they hold in charge for Parliament; and we trust that this duty will be made clear in the Governor's instrument of instructions. In so far as standards are relaxed or superior control atrophies, the elective principle will tend to assume the direction of business outside its own transferred sphere; and in proportion as this occurs, the control of Parliament and the Government of India over the reserved subjects will be weakened. This would be, in our judgment, fatal to the success and foreign to the whole spirt of the forward movement upon which we are now embarking.

Future changes.

Changes after five year deprecated.

111. The last matter affecting the provincial part of the scheme is the proposals for its future development. The intention of para. 260 of the Report is that five years after the constitution of the first reformed councils the Government of India should consider applications from the provincial governments or legislatures for the modification of the lists of reserved and transferred subjects and make recommendations to the Secretary of State; and also that they should be able to direct that ministers' salaries should be voted annually by the legislature, and that failing any such direction by the Government of India the legislative councils should have power to demand by resolution that ministers' salaries should be so voted. This is not a matter which has attracted very general attention, but to us it appears to be one of some importance. Local Governments are divided on the point. The Government of Madras while not opposed to a periodic survey, question the advisability of trying to frame any regular time-table of progressive stages, and would leave it to government as a result of practical experience to modify the division of subjects. The Governments of the United Provinces and Bihar and Orissa accept the proposal, but the Governments of Bengal and the Punjab criticise it serverely. The intention no doubt was to provide some machinery by which omissions or anomalies could be corrected. It has, however, been urged that the arrangement proposed is open to serious objections. The whole scheme of reform is admittedly experimental and progress is to depend on results. If the plan is to succeed, there must be a sufficiently long truce in the struggle for power. As some local Governments have pointed out, any division of subjects invites immediate further demands; the disadvantage of this might not be felt if it were clear from the first that such claims would not be considered for a prolonged period, but if there is power with the Government of India to propose the transfer or re-transfer of subjects after a period of five years only, there is little prospect of tranquillity. As it stands, the proposal has also been regarded in some quarters as perceptibly detracting from the stability which the arrangement of statutory commissions purported to provide, and the criticism has been pressed that a period of five years is too short to

afford any real test of the capacity of the electorates; whatever results emerge in such a period may be largely accidental. We have already expressed the view (para. 40) that the salaries of ministers should be placed on the transferred estimates from the outset. If this suggestion is accepted, then one of the principal grounds for providing for any revision after a period of five years will disappear. We are therefore agreed that it will be wise to omit this *ad interim* procedure, and to rely solely on the statutory commissions for the progressive stages of development.

Periodic Commissions

112. The idea of periodic statutory commissions has been welcomed by Indian opinion, which has for the most part confined its criticism to points of detail. Official opinion is less unanimous. The position of the Madras Government has been explained in the previous paragraph. The Government of the United Provinces and the Chief Commissioner of Assam adopt the view that a parliamentary commission of unknown personnel is not the best authority to estimate the requirements of the political situation in India: they would prefer to leave it to the Government of India and the Secretary of State to time and to regulate the rate of progress. We find ourselves unable to accept these views. We think that a commission appointed *ad hoc* will be able to deal with the complicated questions involved more expeditiously, more authoritatively and more impartially than the Government of India, and that it will be advisable to deal with all the provinces at once rather than *seriatim*. We desire in fact to lay the greatest stress on the advantages of enquiries at stated intervals by an outside authority whose recommendations will carry weight both with Parliament and with the people of India. We attribute the favourable attitude of Indian opinion on this matter largely to the confidence of the people in a commission of the nature proposed, and to the guarantee implied that the whole political situation both in the provinces and the Government of India will come under review at regular intervals. Any suggestion that future progress should depend entirely on the initiative of the Government of India would meet with the strongest opposition and, we think, rightly. We ourselves consider these commissions to be the most substantial safeguard which the scheme affords against a policy of drift; and we are convinced that the success of the whole scheme will be gravely jeopardised if its future development is left to be treated in a hand to mouth fashion according as the Government of India find time and inclination. We have considered the cirticisms in regard to the length of the periods which should elapse between one commission and another, but we do not desire to recommend any change in this respect as the periods proposed appear to us to be suitable.

The Government of India.

The executive.

113. We come now to the changes suggested in the Government of India itself. Paras. 266—269 discuss the causes which may have been responsible for delay in the disposal of business. As regards these we need only say that we welcome any inquiry which offers a prospect of affording much-needed relief to the departmental staff in our headquarters offices. It follows from the fundamental principle laid down in para. 190 of the Report

with which we entirely agree, that there can be no division of subjects in the Government of India. The proposal (para. 271) that the Indian element in the Governor-General's executive council should be increased has met with practically no opposition, but there is a decided feeling among Indians that it does not go far enough, and that at least half the members of the council should be Indians. We recommend the acceptance of the proposal in the report. The main advance will be made in the provinces; the Government of India have heavy responsibilities of an Imperial character; and we consider that the appointment of a second Indian member will be sufficient to give Indian opinion such further weight in their innermost counsels as it is at present wise to give it. The further proposal that such statutory restrictions as now exist in respect of the appointment of members of the executive council should be abolished does not commend itself to us without some modification. The statutory provisions affect both the number of members of council and the qualifications of a proportion of the members. We agree that the former restriction, which is contained in section 36 (2) of the Government of India Act, 1915, should be abolished, but the advantage of abolishing the latter seems to us more doubtful. We would maintain the statutory qualification as it stands in respect of two of them, and we would also secure by statute the appointment of two Indian members. We would also keep the statutory requirement that one member of council should have legal qualifications. We contemplate that, if there is room in council, after the need of securing other special experience has been satisfied, there should continue to be as in the past a third member with ten years' official experience. But in view of the present uncertainty as to the total strength of the council in future we see great difficulty in defining its constituent parts in terms of any fraction of the whole, if we are to provide for the other elements which it is often desirable to admit.

Composition of Assembly.

114. The duty of considering the composition of the Indian Legislative Assembly was entrusted by you in the first instance to Lord Southborough's franchise committee. As this despatch is being written we have received a copy of the committee's report, but have not yet been able to examine it fully. Our conclusions upon the structure of the Indian Legislature must necessarily be affected by considerations which it was not open to the committee, under the terms of their reference, to take into account; and they will be communicated shortly in our second despatch. The remarks that follow should therefore be read as contingent on changes which we may hereafter find it necessary to propose in the scheme of legislative arrangements. For the moment we merely desire to indicate briefly how the proposals of the Report have been received, and to mention certain provisional conclusions which having regard to the limitations of their terms of reference we placed before the committee. In the absence of the detailed information which had been collected in the provinces by the committee it was useless for us to attempt to construct any complete or final scheme, and we confined ourselves therefore to certain considerations of a general nature. The most important of these had regard to the method of election. Opinion generally favours direct election, though doubts have been raised as to its practicability. We ourselves hold that to the Legislative Assembly the representatives

should, if this is in any way practicable, be returned by direct election. On the information at present before us we are not satisfied that a system of direct election is impossible. If so it proves, and if a system of indirect election is unavoidable, then we hold that there should be a material difference of method between the elections to the Assembly and the Council of State. Another matter which has aroused some interest is the distribution of representation between the provinces. This problem is by no means free from difficulty. No single factor can be taken as the basis of distribution, and the apportionment of due weight to each of the various factors must, as we have said, be carefully considered in connexion with the franchise committee's proposals.

Official members, etc.

115. The number of official members of the Assembly must, we think, be determined with due regard both to the composition of the Assembly as a whole and to that of the Council of State, and also to the relations between the two chambers. Neither chamber can be considered without reference to the other, and questions of composition cannot be divorced from questions of functions. It is suggested in the Report that in case there is no room in the Assembly for the secretaries to the Government of India, it may be expedient to allow a secretary to speak and vote on behalf of the member in his department when occasion demands. This proposal does not commend itself to us. Membership of the legislature even if *ex officio* seems to us a personal attribute, and we cannot regard as convenient or constitutional a plan, whereby either of two persons could occupy a certain seat according to arrangements made between them. We have dealt elsewhere with the alternative method proposed for meeting the inconvenience arising out of the absence of secretaries from the Assembly. As regards the rights of official members in the matters of speech and vote our views have already been explained in para. 90. We propose that in this matter the practice should be the same in the Indian legislature as in the provincial councils. We agree that the President of the Assembly should be nominated by the Governor-General, and that for the present he should be selected from the official members. An influential section of Indian opinion is in favour of an elected President, but we are not prepared to agree to this. We agree that the Governor-General should have means of addressing the Assembly, but inasmuch as he would not be a member of that body it seems to us unsuitable that he should intermittently occupy the President's chair. We think that arrangements should be made by which the Assembly should attend the Governor-General when he intimates his intention of addressing it. We support the proposal that members of the Assembly should forego the style of "Honourable" in future.

Composition of Council of State.

116. The composition of the Council of State does not come within the terms of the franchise committee's reference, but it is so closely bound up with the composition of the Assembly that, as we have said, we must consider the two questions together. In the present despatch we can do no more than give some indication of the general reception accorded to the proposal that a Council of State should be created. Opinion on this subject is very much divided. Official opinion and the more conservative section of Indian opinion is generally favourable to the principle of such a body, but there are many suggestions for modifications in detail. The

Government of Bengal consider that the composition of the Council as proposed in the report is unnecessarily intricate, and that since an official majority is avowedly necessary it should not be restricted to the narrowest possible limit. They also remark on the difficulty of securing members who will be representative of Muslim and landed interests in India as a whole. This particular point is one which the franchise committee have examined, and we shall therefore have the assistance of their views in dealing with it. The difficulty has been fully realised by the interests concerned, and it has been urged that the special representation proposed in the Report is inadequate and will not satisfy the communities concerned. Connected with the same point is the Sikh claim for special representation, which has been pressed by the principal Sikh organisation as well as by the Punjab Government and various individuals. Again the proportion of elected members is not considered adequate by a section of the Indian supporters of the Council, who urge that at least half the members should be elected. The proposed association of ruling chiefs with the Council of State has given rise to some misunderstanding, and has been misconstrued as meaning that chiefs would be eligible for membership of the Council. The inclusion of the chiefs would clearly be unpopular and was never contemplated by the authors of the Report. Those who oppose the Council belong to two very different schools of thought and base their opposition on entirely different grounds. There are first the non-official Europeans who generally feel that any change in the Government of India is to be deprecated. They would agree to a small increase in the Legislative Council in order to make it more representative, but they are opposed to the proposal that a second chamber should be created to secure to the Government the powers which (as they hold unwisely) it has surrendered in the Assembly; and they are not entirely satisfied that the composition of this second chamber is such that it will sufficiently secure these powers. The other opponents of the Council are the advanced Indian politicians. Their position is that it is useless to give an elected majority in the Assembly, and at the same time to create an upper chamber which will in some measure supersede the Assembly. They allege that the Council of State will take away all that an elected majority in the Assembly might secure. What they desire is a single legislative chamber with a large elected majority; they would have the Governor-General in Council rely for his affirmative power of legislation on reserved subjects (for they suggest a division of subjects in the Government of India as well as in the provinces) by means of regulations which would be in force for one year unless renewed by a vote of 40 per cent. of the members present. If a Council of State is created, they urge that at least half its members should be elected. In regard to these claims it is only necessary for us to say that we stand by the principle laid down in the Report that the Government of India must remain wholly responsible to Parliament and, that saving such responsibility, its authority in essential matters must remain indisputable. We wholly dissent from the view that the Council of State will reduce the Assembly to a negligible quantity. We believe that with the two chambers constituted as proposed in the Report the Assembly with its large popular majority will be able to make its wishes felt in a wide range of subjects. This leads us to our next point, namely, the powers of the two chambers.

117. The exact form which the legislative arrangements should take will depend on what is settled as regards the composition of the two chambers. As we have said, it is cardinal with us that the authority of the Government of India must remain unimpaired in essential matters. Apart from such exceptional machinery as that of the veto, ordinances, and regulations the Report proposes to attain this end by the provision made for joint sessions and by the certification procedure. The extent to which the device of joint sessions will afford any safeguard depends chiefly on the proportion and disposition of non-official members. The use of the certification procedure will also be affected by the constitution of both chambers: because the need for recourse to certification will depend on the Assembly, while the Council of State must be so constituted that the Governor General in Council can count securely on its support when occasion arises. Criticism of the Report's proposals has been focussed chiefly on this question of certification. Some critics see no hope of essential measures being carried otherwise than by certificate; while at the same time they fear that the power of certification is too restricted to be freely used. Indian opinion on the other hand holds that the power is too wide and urges that from its definition the general term "good government" should be omitted. It proposes that it should be open to the Governor General in Council to certity a measure only if it affects the defence of the country, foreign and political relations or peace and tranquillity, and further that any measure passed with the aid of the certification procedure should be in force only for one year. Some critics would positively restrict the competence of the Indian legislature. They suggest that no legislation of an exceptional character in abatement of the freedom of the press or public meeting or open judicial trial should be carried through the Council of State alone, or against the opinion of the Assembly, except in time of war or internal disturbance, without the approval of the Select Committee of Parliament on Indian affairs, unless such a measure is limited to a period of one year. The scope of this power of certification is a matter of absolutely vital importance, and for the reasons already given we must reserve our recommendations in regard to it, until, as in our next despatch we hope to do, we can place before you a complete legislative scheme for the Government of India.

Legislative arrangements.

Assent, dissolution, etc.

118. There remain certain subsidiary questions connected with the Indian legislature.

(1) The proposals in para. 283 of the Report to the effect that the Governor General and the Secretary of State should retain their existing powers of assent, reservation and disallowance to all acts of the Indian legislature and that the Governor General in Council should continue to have power to make regulations under section 71 of the Government of India Act, 1915 have attracted little attention and no opposition. The power of promulgating ordinances should likewise be retained (sec. 72). We also desire to recommend that the Governor General should be given the same power as the Governor of a province to return a Bill for reconsideration. The proposal that the Governor General should have power to dissolve either the Assembly or the Council of State has been less universally approved. The weight of opinion is in favour of the proposal, but there is considerable feeling that the power is one that

should be sparingly used, and several influential bodies have urged that it should be accompanied by some provision for the summoning of a new legislature within a specified period. We have no fear that the power will be abused, but as in the case of the provincial councils if the object in view cannot be secured by making the election writs returnable by a specified date, we recommend that the power of dissolution should be accompanied by a provision requiring that a new chamber or chambers shall be summoned within a specified period.

(2) Regarding the effect of resolutions we have nothing to add to what we have already said in para. 91. The question of reserved and transferred subjects does not arise in the case of the Indian legislature; and we agree that resolutions passed by either chamber should continue to take the form of recommendations to the Governor General in Council.

(3) Lastly there are the minor points dealt with in para. 280 of the Report which affect the putting of questions and the rules of procedure. The proposals on these points have evoked little criticism. They have been accepted by all the provincial Governments which have noticed them and Indian opinion also is generally favourable. We agree that any member of the Assembly should have the right to put a supplementary question subject to the same conditions as we have proposed for the provincial councils, and also that the control of questions and the restrictions on resolutions should be regulated much on the same lines as in the provincial councils. We also accept the proposal that the standing orders for the Legislative Assembly and the Council of State (as distinct from the fundamental rules affecting the powers of either body) should be made in the first instance by the Governor General in Council and that each chamber should thereafter be able to modify its own standing orders with the sanction of the Governor General. Here again, as in the provincial legislatures, the power of closure will presumably have to be taken.

Privy Council.

119. Few parts of the scheme have received less attention than the proposal to institute an Indian Privy Council. Official opinion is lukewarm, and non-official opinion, both European and Indian, is mostly adverse. It is represented that no case has been made out for such an institution, and that no definite functions are proposed for it: if its only purpose is to advise, then it is regarded as unnecessary, because the two chambers of the legislature will supply all necessary advice, and even harmful, since it may hinder the work of the popular assemblies. This fear that the council may exercise an undemocratic influence and may be used in some way or other as a set-off against the legislature is plainly at the bottom of the Indian opposition. We are inclined to think that these criticisms are largely due to misunderstanding. While some of us merely see no objection to a Privy Council constituted in the manner proposed, others suggest that it would prove very useful to the Governor General as an advisory body, on occasions such for example as the war conference held at Delhi in April 1918; and that appointment to it would in time come to be prized almost as much as appointment to His Majesty's Privy Council. Those who favour the idea of a council think that its advice might be of special value on matters involving religious issues, and that committees of the council might also do valuable work

for the development of special branches of education or industry, and in other ways. We therefore support the proposal though some of us value the idea more highly than others. As doubts have been expressed upon the point it should, we think, be made clear that members of the Council of State will of course not sit of right in the Privy Council, appointment to which would be the act of His Imperial Majesty the King Emperor of India.

Standing Committees.

120. We come next to the devices proposed for establishing a closer connection between the executive and the legislature in the Government of India (paras. 275 and 285). These are akin to those we have already considered in connection with the provinces. The proposal that standing committees of the Government of India should be set up has met with little opposition. We have in para. 92 stated the arguments which have been urged against the establishment of such committees. In their application to provincial committees we considered that the objections had been exaggerated, but in the case of committees of the central legislature we feel that they apply with much greater weight. There would be much more difficulty in arranging the assembly of committees in Delhi and Simla than at provincial headquarters. Delays would also be more serious and vexatious than are likely to occur in the provinces, nor in view of the nature of the business done is there the same justification for the committees as there is in the provinces. We have proposed that provincial standing committees should be constituted as a means of educating a certain number of persons in administrative methods with a view to their becoming ministers. We do not feel that this consideration has the same force in respect of the central Government. Our present purpose is to develop responsible government in the provinces; but the Government of India is to remain amenable to Parliament, and there is therefore no need to introduce into it an arrangement which we can justify in the provinces only on the ground of its educative value. Committees appointed *ad hoc* are on a different footing. They have proved of value in the past and will be of value in the future, and we feel that so long as it is possible to institute such committees when occasion arises there is no need for the establishment of any system of standing committees in the legislature of India.

Council Under-secretaries.

121. We have accepted the suggestion that members of the provincial legislative councils should be appointed to positions analogous to that of parliamentary under-secretaries, subject to certain reservations. But the same reasons as have influenced us in the case of the standing committees have led us to the conclusion that appointments of this nature are neither necessary nor desirable at the present stage in the Government of India. The point is not one that has attracted much attention or criticism and it is possibly not one of much importance; but we feel that it would be inadvisable to complicate the working of the Government of India in the difficult times that are before us by an arrangement which cannot be justified on strong grounds, and which might be misconstrued as an attempt to introduce by a side issue the ministerial system into the Government of India. We do not therefore propose to proceed with the proposal.

Changes in control.

122. We now turn to the proposals concerning the position of the Secretary of State in Council, the organisation of the India Office and the relations of the Secretary of State with Parliament. Some of these proposals affect matters which are at present the subject of enquiry by a special committee sitting in London, and in regard to these it seems unnecessary for us at the present stage to make any recommendations. On these matters, however, in which we have an indubitable interest you will no doubt afford us a full opportunity of expressing our views hereafter in the light of the committee's recommendations. For the present we will summarise briefly the opinions received by us on the various proposals of the Report, state our own tentative opinions when we can usefully do so, on points submitted to the committee, and confine our recommendations to matters which have been excluded from the scope of the committee's enquiry. The proposition is generally accepted that the Secretary of State must cease to control the administration of such subjects as Parliament consents to transfer; and we agree in the view taken by the authors of the Report that discussions on such subjects in Parliament should be governed by the fact of their transfer, but that the Secretary of State should remain free to call upon the Government of India for any information upon Indian affairs which Parliament may require. We shall develop this point in our second despatch. The delegation proposed in the reserved sphere has met with less general approval. The suggestion is that while Parliament cannot abandon its ultimate control over the administration of reserved subjects, it should consent to facilitate the working of the reforms by authorising the Secretary of State, by rules to be placed before it, to divest himself of control over the Government of India in certain specified directions, and to empower the Government of India to do likewise in relation to the provincial Governments. Official opinion is generally favourable to such relaxation of control; non-official Indians, though they accept the principle on its financial side, are almost unanimously opposed to it in its administrative aspect. They urge that the control of the Secretary of State should be modified only in proportion as the principle of responsibility in the provincial governments and the Government of India is increased. We admit the logic of this view. We cannot recommend that the Government of India should be given a partly responsible character; and for that reason we entirely agree that there is no reason why the Secretary of State should forego his statutory right to control the Government of India whenever he thinks that his responsibilities to Parliament require that he should do so. But what we have in view is not this. Non-official opinion is probably not well informed as to the exact relations which at present subsist between the Secretary of State and the Government of India on the one hand, and the Government of India and provincial Governments on the other, and of the extent to which the provincial Governments and the Government of India are under superior control in matters of comparatively trifling importance. We feel strongly that the ultimate control of Parliament and of the Secretary of State, its agent, must be retained in regard to reserved subjects; but we are satisfied that consistently with the preservation of unquestioned powers of control, it is both possible and

highly expedient to effect a considerable measure of delegation in a large number of cases. The various departments of our Government, in connection with the work of the subjects committee, have been examining the question of further delegation to provincial Governments in the reserved sphere, and we shall in dealing with the report of that committee place before you our recommendations; and if the committee which is considering the functions of the India Office agrees that some further delegation by the Secretary of State is desirable we shall be glad to be informed as early as possible of its conclusion. As regards the special question of the relaxation by the Secretary of State of his present powers of stringent financial control we would refer to para. 58 above.

India Office.

123. The appointment of the India Office committee itself has been universally approved, and in some quarters there is a disposition to advocate the immediate abolition of the Council of India. The weight of articulate Indian opinion undoubtedly is to the effect that the Council is an undemocratic body which is a hindrance to progress. Some who do not press for its annihilation would like to see its membership materially reduced and the proportion of Indian members largely increased, while a popular proposal is that its place should be taken by two Indian under-secretaries of State. The suggestion that arrangements should be made for some interchange of personnel between the staff of the India Office and the public services in India has attracted less attention, but those critics who have considered the point are generally favourable. We see great advantage in securing a closer connection between the administration in India and the India Office; but upon all these important points we prefer to reserve our opinion until we have considered the conclusions arrived at by the committee on which you will doubtless consult us. The transfer of the Secretary of State's salary to the British estimates has been demanded by the Indian National Congress for many years, and the proposal on this point has therefore been acclaimed by Indian opinion. We note that this matter has been excluded from the scope of the committee's enquiry; and we desire therefore to recommend that the proposal be accepted. The transfer of other charges connected with the India Office is a more difficult and complicated question; and it is no doubt because Indian politicians generally do not appreciate the exact nature of these charges that they demand almost with one voice that all such expenditure should also be transferred to the British estimates. We must reserve our recommendations until we are in possession of the committee's report. The question of instituting a committee of Parliament to deal with Indian affairs appears to us to be primarily a matter for the consideration of Parliament itself, which can best judge how far such a body accords with its own accepted methods of business; for which reason we desire to offer no observations upon it except in respect of one point. The idea has been well received in India, but several provincial governments and some influential European commercial organisations also have pressed the view that the committee should be representative of both Houses of Parliament and not of the House of Commons alone. It is urged with some force that experience of India is more largely represented in the House of Lords, and that if the committee is to be as representative and as influential as possible, it

should contain members of both Houses. We ourselves are inclined to agree with this view; but content ourselves with saying that we shall welcome any arrangement which will secure a better informed and a more sustained interest in Indian affairs in Parliament.

Princes and Chiefs.

124. We shall not in this despatch deal with any of the questions affecting the Princes and Chiefs of India which are discussed in Chapter X of the Report, but shall address you upon these matters separately.

Miscellaneous.

125. Our views upon the position of the public services generally under the reforms scheme have been stated in paras. 43 to 55 above. As regards the other matters affecting them which are discussed in Chapter XI of the Report we need not now say much. The revision of the pay and conditions of service is being and has already partly been worked out, and we have laid our proposals in some cases before you and received your decisions: much remains to be done, and we would only add that it is work of detail that takes time if it is to be done properly. We are similarly engaged upon the large range of subjects connected with the Indianization of the services, and the pay and recruitment of Indians. We entirely accept the policy of instituting separate recruitment in India, and of increasing the number of Indians in the services. We have consulted local Governments upon the suggestion made in para. 326 that public servants should be given a certain latitude in defending themselves against criticism. The report recognises that there are difficulties in the matter, and for the present we reserve our opinion. Nor need we on the present occasion refer to questions affecting the army, or to industrial questions. We enclose a report of the speech delivered by His Excellency the Viceroy at the opening of the Indian Legislative Council on February 6, 1919, in which he explained the manner in which we think that the guarantees held out in the Report to the services and to the European commercial interests should be made good. Upon the latter point therefore we need say no more. We shall bear both these points in mind in preparing our draft of the instructions to the Governor.

Conclusion.

126. We have now completed our examination of these structural proposals. We hope to epitomise them shortly in a revised version of the summary attached to the Report, which we trust you will find convenient for purposes of reference. The picture presented in this despatch is still incomplete because we have not yet dealt with the matters arising out of the reports of Lord Southborough's committees; but to us it seemed that in dealing with a subject of so wide a range the balance of advantage lay in not attempting to cover the entire ground in a single communication. Realizing that those with whom lies the final responsibility for decisions so momentous to the Indian people will desire to have the entire material in their hands, we shall lose no time in placing before you our views about franchises and the demarcation of subjects. Our present proposals must be in a sense provisional until those have been received. But, whatever be the strength and character of the first electorates and whatever be the initial division of functions the real factors on which a decision has now to be based are, on the one hand, the conditions of India to-day and, on the other, the effect on those conditions of new powers

and resposibilities. We have endeavoured to place before you the issues which will emerge from the clash of these forces; but the issues are momentous and the forces immense. We are glad to think that the final decision rests with the Parliament of Great Britain and Ireland, which will approach this weighty question with unprejudiced mind.

Postscript.

127. His Excellency the Viceroy has appended to this despatch a minute, not of dissent but of explanation of his personal views. Sir George Barnes, who has been compelled by ill-health to take short leave, was present at most of the discussions which led up to the decisions embodied in the despatch, and we are authorized by him to add that, if he had been present, it would have borne his signature. Our colleague Sir Sankaran Nair has recorded a note of dissent, which we attach. Time is important and we have not discussed his arguments, although it be clear that we have fully considered and rejected them.

We have the honour to be,

SIR,

Your most obedient, humble Servants,

CHELMSFORD.

C. C. MONRO.

C. H. A. HILL.

C. SANKARAN NAIR.

G. R. LOWNDES

W. H. VINCENT.

J. S. MESTON.

T. HOLLAND.

Minute by His Excellency the Viceroy, dated March 5, 1919.

I feel it right to append a minute to this despatch, not of dissent but by way of personal explanation.

In 1916 my Government forwarded a despatch to the Secretary of State framing an announcement of policy and the first steps to be taken in pursuance of the policy enunciated. The despatch was subjected to criticism—criticism which I accept as sound—that it failed to fix the enlarged Councils with responsibility. A mere increase in numbers it was said did not train Indians in self-government. It did not advance this object unless the Councils were at the same time fixed with some definite powers and with real responsibility for their actions.

It is to my mind clearly evident that such criticism was the genesis of the form of the announcement of policy made by the Secretary of State on behalf of His Majesty's Government on August 20th. That announcement had three outstanding features. First, the progressive realisation of responsible government is given as the keynote and objective of British policy in India; secondly, substantial steps are to be taken at once in this direction; and thirdly, this policy is to be carried out by stages. I think I shall not be stating the basic principle of this policy unfairly when I sum it up as the gradual transfer of responsibility to Indians.

The Secretary of State was deputed by His Majesty's Government to proceed to India to discuss the whole question with myself and my Government, and the results of our discussion are embodied in the joint Report which we presented to His Majesty's Government.

We took as our terms of reference the announcement of August 20th, and I confidently assert that in the proposals we have made we have not swerved from the terms of that announcement. The progressive realisation of responsible government is the basis of our proposals; substantial steps to be taken at once in this direction are formulated; and we have provided through the machinery of the Periodic Commission for the achievement of the policy announced by successive stages.

We have not overlooked the very grave and real difficulties which lie in the path of the policy proposed. They are set out at length throughout the Report, but especially in the Chapter entitled the Conditions of the Problem, and in my perusal of the criticisms of the Report I have seen no difficulties stated which we have not ourselves emphasised. As regards the proposals themselves no criticism which has been directed against them is more severe than our own statement of the case in paragraph 354 of our Report.

"As we have said already becouse it (the Report) contemplates transitional arrangements, it is open to the criticisms which can always be effectively directed against all such plans. Hybrid executives, limited responsibility, assemblies partly elected and partly nominated, divisions of functions, reservations, general or particular, are devices that can

have no permanent abiding place. They bear on their faces their transitional character; and they can be worked only if it is clearly recognised that that is their justification and their purpose. They cannot be so devised as to be logical. They must be charged with potentialities of friction. Hope of avoiding mischief lies in facing the fact that they are temporary expedients for training purposes, and in providing that the goal is not merely kept in sight, but made attainable, not by agitation but by the operation of machinery inherent in the scheme itself."

I have quoted this passage to show that the Secretary of State and I did not shut our eyes to the very grave difficulties attendant on our scheme. But to what are these difficulties due? They are not due to any perverse ingenuity on the part of the Secretary of State and myself in the framing of our proposals. They are inherent in the principle underlying the announcement to which we were bidden to give effect, *viz.*, the gradual transfer of responsibility to Indians. And I wish here to endeavour to define what I mean by responsibility. There has been much discussion as to what is meant by responsibility, responsibility to constituents, responsibility to legislative councils and the like, and I cannot but think that there has been much talk and writing on this subject which is beside the mark, and perhaps our Report is equally guilty with others in this respect. What are we aiming at in our policy? Surely this, that the decision of certain matters—I will not discuss what matters—shall rest with Indians; that in these matters it will be for them to "Yes" or "No"; and that our scheme shall provide, as far as possible, for everybody knowing that the decision in any particular matter is their decision, that the "Yes" or "No" is their "Yes" or "No". This definition of the responsibility to be attained by Indians is one to which, I believe, most people will subscribe, and I believe it to be the responsibility at which His Majesty's Government were aiming when they made their declaration of policy.

It is one thing however to enunciate a principle; it is another thing to translate the principle into practice. The Secretary of State and I have had the task imposed upon us of translating the principle of the gradual transfer of responsibility to Indians into practice. We explored every road, we followed up every path which seemed to lead to the goal we had in view, but we always came back to this,—that if responsible government is to be progressively realised through the gradual transfer of responsibility, as defined above, the only method by which this can be attained is one which involves the division of the functions of government between two different sets of authorities, a method which has been compendiously styled "dyarchy".

In a unitary government, short of a unitary responsible government, you cannot fix responsibility upon Indians. You can associate Indians with the Government, but you cannot fix them with responsibility in the sense that anyone can see at a glance that the decision in any particular case is their decision. Moreover, in a unitary government there is no room for the gradual transfer of responsibility. There is only one step from irresponsibility into the full responsibility which responsible government connotes. By the dyarchic method, however, you can insure full responsibility in certain subjects, with machinery to extend that responsibility to other subjects as occasion permits. The division of subjects between the official portion of the Government and

the Indian portion of the Government insures that each portion is fixed with responsibility for its action in the sphere allotted to it. Such a division is full of difficulties as critics of our scheme have not failed to point out, but they are the price which we must be prepared to pay, if we are to translate the principle underlying the announcement of August into practice, and make the transfer gradual.

I think I may bring out in greater relief the broad differences between the schemes of unitary government and dyarchy, if I analyse the scheme propounded by five Heads of Local Governments which is forwarded with the despatch. I welcome the scheme because it is possible from a comparison between it and the scheme of the Report to appreciate the issue between a unitary and a dyarchic government.

In paragraph 3 of the minute it is said "While the announcement of His Majesty's Government in Parliament rightly placed the association of Indians with the Government in the foreground of the policy, the idea of association has been overshadowed and obscured by the idea of responsibility."

His Majesty's Government are the sole judges of what was meant by the announcement of August 20th. I have at the beginning of this minute discussed what I believe to be the genesis of the announcement of August 20th and what I regard as its main features and its underlying principle.

If I am wrong as to these, the foundation of the arguments in the preceding pages disappears, but I will examine the scheme of the Heads of Local Governments on the assumption that I am correct.

The main features of the scheme may be said to be—

(1) A Council of equal numbers of officials and non-officials, the latter selected from elected members.
(2) No division of subjects.
(3) Legislative Council to be as in the joint Report.
(4) The Governor to have powers to overrule his Executive Council under section 50 of Government of India Act, 1915.
(5) Legislation to be as in joint Report. Grand Committee to exist, but the Governor to have a free hand in the selection of members nominated for it and Governor to have powers of certification in the terms of section 50 mentioned above.
(6) Budget to be voted by the Legislative Council, but Governor to have power to restore any item in terms of section 50.

It can, I think, be seen at once that the pith of the scheme lies in the constitution of the Executive and in the non-division of subjects. The other features are either those of the joint Report or modifications of it. Can it be said that in the Unitary Executive as proposed it will be possible to fix the Indian portion of the Executive with responsibility in the sense in which I have used it in this minute, *viz.*, that it will be for them to say "Yes" or "No" in certain matters and that everybody will know that the "Yes" or "No" is their "Yes" or "No". Their position will not be different from that enjoyed by Indian Members of Executive Councils at the present moment, under which the predominance of the British element always shields the Indian Member from any direct responsibility in respect of actions of the Government. He

can always point to the majority against him as reponsible for the action taken.

Again, on the assumption that "the gradual transfer of responsibility" is the basic principle of the announcement, I believe that under the scheme of the Heads of Local Governments there can only be one step from a position of irresponsibity to one of full responsibility. Under this scheme advance can only be by an increase of numbers of Indians in the Executive Council and granted that the initial numbers of British and Indians are two and two, an increase of one to the Indians places them in full control. Let me quote from the minute of dissent of Lord Ronaldshay and Sir Edward Gait to the scheme under discussion. "It is true that if the scheme of the joint Report be adopted, there will be continued agitation for an increase in the number of transferred subjects. But under the alternative scheme there will be an equally strong agitation for an increase in the number of non-official Members of the Government; and concession to that agitation would be far more dangerous, as it would involve a sudden transfer of all power from the official to the non-official members, subject to the power vested in the Governor by section 50 of the Government of India Act, which however he could exercise only on very special occasion."

It still remains for me to examine the position of the Legislative Councils under this scheme. The Heads of Local Governments rely on the machinery of the Grand Committee and the use of the certificate to carry their affirmative legislation. In so far as they find themselves able to use this machinery in the whole domain of government, they will reduce the Councils merely to bodies of irresponsible critics to whom no power is given, in whom no responsibility is fixed, but whose numbers are materially increased. In so far as they do not use the machinery they will reproduce the position of Canada described in the Durham Report—an irremoveable executive and an irresponsible but supreme legislature. It might be said that this same argument recoils on my head in respect of our treatment of reserved subject. But to this objection I would point out that we have advisedly not introduced the principle of responsibility into that sphere, while in the sphere of the tranferred subjects the principle has full play.

The potentialities of friction, which are predicated for the dyarchic scheme, will thus, to my mind, be equal if not greater in their proposals and the saving grace of reponsibility will find no place.

Once more,—I have seen schemes under which a combination of division of subjects with a unitary executive is proposed. I would ask those who suggest such schemes to test them by the two principles, which I understand are basic in the announcement, of fixation of responsibility and of gradual transfer of responsibility. I do not believe they will survive the test. But let me state the problem in another way. The division of subjects is incompatible with Unitary Government. The moment you divide subjects you necessarily divide the Government, otherwise there is no meaning in the division. You divide subjects in order to allocate those which are to be under the control of the Legislative Councils to Members of the Government who would owe allegiance to the Councils. By division of subjects then you at once introduce dualism into the Government, and have two portions of one Government owing allegiance to different authorities.

I have confined myself in this minute to the one point whether or not the advance is to be by way of the gradual transfer of responsibility. This to my mind must be settled before it is profitable to discuss the details of the proposals. I have traced the history of the promulgation of this principle. It is for His Majesty's Government to decide whether I have traced it aright and whether I have correctly interpreted their announcement of August 20th. The idea of responsibility was, as I believe, introduced into that announcement deliberately and I have endeavoured loyally to carry it out in the proposals for which the Secretary of State and I were jointly responsible. I leave it then for the decision of His Majesty's Government, but I earnestly press upon them the imperative necessity of action in fulfilment of their announcement. I agree with the opinion expressed by His Excellency the Governor of Bombay, in a note written to me in connection with the Conference of Heads of Provinces, that "time is a factor of vital importance in the consideration of the whole question of Reforms." "I am convinced," he says, "that delay is a greater danger even than an imperfect scheme, and that those of us on whom must fall the heavy burden of putting reforms schemes into actual operation will be better able to work an imperfect scheme with the good-will and confidence of all concerned than to operate a more perfect scheme—if one can be devised—when confidence and good-will have been broken and alienated by disappointment and delay."

One last word.—The Secretary of State and I asked for publication of our Report because, as we said, "our proposals can only benefit by reasoned criticism both in England and India, official and non-official alike." That criticism, so far as India is concerned, has been received and along with my colleagues in the Government of India I have carefully weighed it. The results of our consideration are embodied in the amendments suggested by us in our despatch. We have not departed from the underlying principles of the Report, and I believe that we have done much to clarify and strengthen the proposals as a practical scheme.

CHELMSFORD.

Minute of Dissent by Sir C. Sankaran Nair, dated March 5, 1919.

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1. The policy of His Majesty's Government has been announced to be "the progressive realization of responsible government in India as an integral part of the British Empire." Some critics are apparently of opinion that this means the complete, though gradual, transfer of control from Parliament to legislatures in India. The words that India should be "an integral part of the British Empire" appear to me to forbid such an interpretation. As long as India remains an integral pa t of the British Empire, the paramountcy of Parliament must be recognised and maintained. Limitations may possibly be placed upon the exercise of the powers of Parliament by practice and well-understood conventions. In fact 'the control of Parliament' may have one meaning in certain colonies and another meaning elsewhere. But the legal right of Parliament at any time to interfere with the Government of India must, for various reasons which it is unnecessary here to enumerate, be beyond doubt. What in my opinion "responsibility" implies is the subordination of the executive to the legislative council composed of the representatives of the people. For this purpose, it makes no difference whether they are governments nominated by the legislative council or not. The essential point is that they must carry out the will of the legislature in every respect.

The proposals made by my colleagues tend to the diminution of Parliamentary control not for the purpose of transference of such power to the legislative councils of the country, but to the executive governments in India. What the Indians desire is not that Parliament should surrender in favor of the executive governments its power of control, but that it should delegate it to popular assemblies in India when it should think it proper to do so. During the period of transition, Parliament or any authority in England which faithfully represents Parliament might interfere with the exercise of any delegated authority by the legislative assemblies in India at the instance of the executive authorities or otherwise. I do not think that well-informed moderate Indian opinion will raise any objection to a real intelligent control by Parliament in Indian affairs. So far as I know, they rather invite it. This difference of opinion will be found to explain a great deal of the differences between many of the proposals put forward respectively by the Government of India and by the Congress Party. The India Office, with the Secretary of State, as at present constituted, does not faithfully represent Parliament.

2. Another criticism in opposition to this announcement and the steps proposed to be taken under it is, that it is hopeless to introduce into India a government responsible to the people of the country, as any system of government other than that of absolute monarchy was unknown in India and is entirely foreign and repugnant to the genius of

the people. Those who advance this objection apparently ignore the influence of education, environment, association, political evolution, time spirit, etc. Besides as a matter of fact non-monarchical forms of government are not foreign to the genius of the people. I shall confine myself to the testimony of European writers. According to Professor Rhys Davids "the earliest Buddhist records reveal the survival, side by side with more or less powerful monarchies, of republics with either complete or modified independence." He also says: "The administrative and judicial business of the clan was carried out in public assembly at which young and old were alike present in their common Mote Hall at Kapilavastu. A single chief—how and for what period chosen we do not know—was elected an office-bearer, presiding over the sessions, and if no sessions were sitting, over the State. He bore the title of Raja, which must have meant something like the Roman Consul or the Greek Archon." The Greek writers refer to tribes who dwelt "in cities in which the democratic form of government prevailed" (Ancient India, Alexander's Invasion, McCrindle, page 292). There is also a reference to another tribe "where the form of government was democratic and not regal." Various other tribes who opposed Alexander are referred to as living under a democratic form of government (see Arrian Anabasis: McCrindle, page 154). Diadoros speaks of a Patala as a city "with a political constitution drawn on the same lines as the Spartan; for in this community the command in war is vested in two hereditory kings of two different houses, while a Council of Elders rules the whole State with paramount authority."* The latest authority that I know of on the subject is Mr. Havell.† He says: "The common belief of Europe that Indian monarchy was always an irresponsible and arbitrary despotism is, so far as concerns the pre-Muhammadan period only one of the many false conceptions of Indian history held by Europeans." "It will be a surprise to many readers to discover that the mother of the Western Parliaments had an Aryan relative in India, showing a strong family likeness, before the sixth century B. C. and that her descendants were a great power in the state at the time of the Norman conquest." (a) "The liberty of the Englishman was wrong from unwilling rulers by bitter struggles and by civil war. India's Aryan constitution was a free gift of the intellectual to the people; it was designed not in the interests of one class, but to secure for all classes as full a measure of liberty and of spiritual and material possessions as their respective capacities and consideration for the common weal permitted." Megasthenes refers to the assemblies in Southern India also controlling and even deposing kings. How long these forms of government subsisted, it is now not easy to say. It certainly prevailed on the West Coast of India among the Nairs at the time of the Portuguese invasion. The Portuguese writer speaks of the "Parliament" which controlled the Kings (cited in Logan's District Manual of Malabar). The Jirgahs on the North-West of India which in the British territories now consist of the nominees of

* I omit all references to the Vedas, Mahabharata and the other Indian including Buddhistic authorities which are all referred to, along with what I have cited above, in two forthcoming works by K. P. Jayaswal and Dr. Bhandarkar respectively which will be shortly issued by the Calcutta University; and some of them also by Pramathanath Banerjea in his "Public Administration in Ancient India."

† E. B. Havell. "The History of Aryan Rule in India" Harrap & Company (1818).

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the Deputy Commissioner or Commissioner are the representatives of the old tribal assemblies which settled questions of war and peace and other important questions of government. Across the frontier the Jirgahs still exercise in some places those rights. The political conditions in India were not favourable for the survival of democratic institutions. That the spirit of popular government had not died when the British Government took possession of the country is however clear.

3. It can scarcely be denied that in the ordinary villages a democratic form of government prevailed when the British took possession of the country. "Neither ancient nor modern history in Europe can show a system of local self-government more scientifically planned, nor one which provided more effective safeguards against abuses, than that which was worked out by Aryan philosophers as the social and political basis of Indo-Aryan religion."* The Fifth Report of the Select Committee of the House of Commons accurately describes how the village republics had survived invasions, convulsions and monarchy after monarchy. On this question Sleeman's Travels and Max Muller's 'What India can teach us' may be referred to. These village assemblies administered justice—both civil and criminal. The supreme government dealt with them and not with the inhabitants of the villages. They apportioned the revenue or tax among the inhabitants. They owned the public lands, and not the government. They consisted of elected members. We have got the election rules, containing the qualifications, disqualifications, etc., in detail of the electors of long long ago preserved in inscriptions.† But they were incompatible with the revenue system of the British Government and with their administration of civil and criminal justice. The old village officials were converted by our government into government servants and became, according to popular view, government tyrants. The village entity was not recognised and in some provinces was destroyed by legislation. The common lands became government lands. The so-called village organizations which are the creation of British legislation or administration bear no resemblance to the ancient assemblies. It is impossible for any one who has even cursorily studied the history of village assemblies to maintain that the spirit of popular government has died out among the people.

4. Every Indian lawyer knows the caste assemblies which settle caste disputes often involving ownership to properties of great value. The argument from administration of justice also seems to be a conclusive answer to those who maintain absolutism as an essential feature of Indian polity. We now administer the Hindu laws of inheritance and certain other laws which are inseparably bound with the law of inheritance. Yet they are not laws which, so far as we know, had the sanction of any sovereign. They were framed by great law-givers, not kings, and those laws were applied by caste or village assemblies to cases of individuals that came up before them. It is not right to say that any system other than that of absolute monarchy is repugnant to Hindu genius.

5. Besides, apart from the ideas and traditions which Indians have inherited with their respective civilizations, they have also imbibed the

* E. B. Havell. "The History of Aryan Rule in India" Harrap & Company (1818).

† See Ancient India by S. Krishnaswami Aiyangar, with an introduction by Vincent A. Smith, page 169.

ideas of representative institutions under British Rule. For the last thirty-five years they have been more or less familiarized with elected or representative Municipal Boards and District and Taluq Boards, Congresses and Conferences. They have been praying for the introduction of representative Legislative Councils. And there is no form of Government which appeals more to the thoughtful among Indians to-day than a Government where the representatives of the people would sit to decide questions which affect the people.

It is important to note the growth of Indian public opinion on this question in order to judge what measures of reform are needed in the present condition of India and what are likely to satisfy that opinion.

My colleagues have not attached due weight to these considerations and have accordingly proposed various modifications which would make the Reforms Report scheme inconsistent with the announcement of the 20th August and utterly inadequate to meet the needs of the situation. To show this, I shall first state the proposals in the Reforms Report, and before dealing with the modifications proposed by my colleagues, draw attention to the conditions of the problem as they have developed during the last thirty years, which, in my opinion, have not received due consideration.

The Scheme—The Government in the Provinces.

6. The proposals in the Report may be divided into three broad divisions (1) Certain departments of government, say local self-government, etc., are to be placed under the control of Indian "Ministers" who will be responsible to legislative councils in the provinces composed of a large majority of members elected by the people and therefore entitled to be called themselves their representatives. Those departments are to be administered by the Minister under the general supervision of the Governor of the Province.

(2) Other departments, which will consist of what are called "Reserved" subjects are to be administered by an Executive Council composed of one official, preferably an English Civilian, and one Indian appointed on the recommendation of the Governor. The Minister and the Legislative Council are to exercise considerable influence in the administration of the "Reserved" subjects as the entire body consisting of the Executive Council and the Ministers are to form one united government deliberating jointly in all important matters, though the decisions are to be taken only by the executive authorities in each department; there is to be only one common budget for both in the settlement of which, in cases of differences of opinion between the Minister and the Executive Council, the Governor is to have the deciding voice. The budget so settled may be modified by the Legislative Council in any way they like, subject to the power of the Governor to restore any provision in the budget which he might think it necessary to do in the interests of the "Reserved" subjects. And finally no taxation in any instance is to be imposed without the consent of the Minister. It will thus be seen that these provisions give the Minister and the Legislative Council considerable influence in the administration of the reserved subjects; and the Executive Council is thus, though indirectly, made amenable to the influence of the Legislative Council in various important

respects. In view of what I consider the retrograde proposals which are now being put forward by the Government of India, these proposals about reserved subjects are very important. Periodical enquiries are to be made by Parliamentary Commission for the purpose of removing subjects from the "Reserved" list into the "Transferred" list. The success of the Minister and of the Legislative Council in dealing with transferred subjects might not in itself constitute an adequate ground for the transfer of any of the reserved subjects which would ordinarily be of a very different kind. It is only the nature of the advice offered by the Minister and the Council and the influence brought by them to bear upon matters relating to the reserved subjects that would furnish the Commission with satisfactory reasons for their fitness for administering subjects so far withheld from them. These provisions, therefore, as to unity of government—the influence of the Minister and the legislature over the reserved subjects—form an essential part of the scheme of the Reforms Report. From the Indian point of view, their importance is still greater. The reserved subjects will naturally consist of various and important subjects in which great administrative and other improvements, according to public opinion, are necessary. These provisions will enable the Legislative Councils and the Minister to insist upon the various necessary and beneficial reforms, with the result that if those reforms are not carried out, the Commission of Enquiry will be able to hold the executive council responsible for the short-comings of the administration and will feel justified accordingly in transferring the government of those subjects to the Minister and the Legislative Council.

(3) There is a third class of subjects which are under the control of the Government of India, who are to be responsible only to Parliament. They have no responsibility in any sense to the Legislative Council; but the Indian element is to be materially increased both in the Executive and the Legislative Councils so that they might materially influence the decisions of the India Government.

It is also a feature of the report that the Government of India are to retain within their control as few subjects as possible, *i.e.*, those which are necessary for peace, order and good government of the country. Therefore as large a devolution to the provincial governments as is compatible with this obligation of the Government of India is to be carried out. It will be seen that this follows necessarily from one of the main condition of the problem *i.e.*, that under the existing system reforms are difficult, if not impossible.

7. I accept these principles and also generally the scheme in so far as it refers to the provinces. I shall have to suggest a few modifications but they will be strictly consistent with these principles and in fact are only intended to carry them out a little further in their application to the provincial Governments, but as will be shown presently my colleagues have considerably modified the scheme. According to the scheme as modified by them there is really no responsibility left so far as the transferred departments are concerned, and so far as reserved departments are concerned the influence of the Minister and the Legislative Councils has been eliminated. The justification for their proposals is the assumption made by them, that those to whom powers would be transferred according to the scheme are an oligarchy who may use them

to the detriment of the masses, that the demand for reform emanates only from a small and comparatively insignificant class, that political progress will be accompanied with loss of efficiency and that the administration which has hitherto been conducted according to British standards and ideals will gradually acquire what is called an Indian character. In the reforms report also there are indications that these views may have influenced its authors in restricting the scope of reforms. With reference to this the following facts have to be borne in mind.

8. The Indian National Congress was started in the year 1885 to divest the Government of India if possible of its autocratic character and to make it conform to English standards and ideals. For this purpose it was hoped that the representation of grievances to the Indian and the British Government by themselves and by elected members in the Legislative Councils would secure their redress. The first Congress demanded an enquiry into the working of the Indian administration on account of the deterioration of the condition of the people. The second Congress which met at Calcutta in 1886 and which was really the first Congress composed of delegates from the various parts of India, after passing a resolution of congratulations to her Majesty, passed the following resolution :—

> "That this Congress regards with the deepest sympathy and views with grave apprehension the increasing poverty of vast numbers of the population of India, and (although aware that the Government is not overlooking this matter and is contemplating certain palliatives) desires to record its fixed conviction that the introduction of representative institutions will prove one of the most important practical steps towards the amelioration of the condition of the people."

It will be observed that representative institutions were demanded in order to deal effectively with the increasing poverty of India. It is also remarkable that many amendments were proposed putting forth palliatives for the poverty of the masses like the permanent settlement, wider employment of Indians, encouragement of indigenous trade, etc., but they were all rejected, and the above-mentioned resolution was carried.

The official report of the third Congress recorded that, "the Indian community despair of obtaining any material alleviation of the misery they see around them, until they can secure a potential voice in the administration.'' And it was added :—"It is this conviction, more than anything else, that is giving such an intense earnestness to their efforts in the direction of representation." Accordingly, when General Booth of the Salvation Army, commending "to the attention of Congress the claims of the millions of India's starving poor," suggested certain schemes, the seventh Indian National Congress passed a formal resolution that the relief of the millions of half-starving paupers, whose sad condition constitutes the primary *raison d'etre* of the Congress, cannot be secured by any palliatives; and said , "it is only by modifying the adverse conditions out of which this widespread misery arises, and by raising the moral standard of the people, that any real relief is possible. As regards the first, the Congress programme now embodies all primarily essential reforms; as regards the second, in every province and in every caste, associations, public or private, are working with a yearly increasing earnestness."

9. Among the reforms which the Congress from that time up to the present have been pressing are compulsory primary education in the interests of the masses, technical education for industrial development, local self-government, mainly in the interest of sanitation, etc., separation of judicial and executive functions for better administration of justice, reform of the land revenue system, abandonment of the theory that land forms the private property of the Crown to be dealt with by the executive at its pleasure and the recognition of national ownership of land by bringing what are called the Revenue settlements under the control of representative Legislative Councils, a far larger admission of Indians into the public services without racial distinction. These are some of the most important of the reforms which have been put forward.

These and other reforms were pressed upon the attention of Government by Indians whose capacity was undoubted, who subsequently rose high in Government services and with ability which left nothing to be desired. There was agitation not only on the Congress platform but elsewhere also. Subsequently in the Legislative Councils the elected members continued the process but all this was scarcely of any avail. The result on the other hand was a stiffening of the Civil Service opposition to Indian progress mainly on the ground that English ideals are not suited to India. Gokhale said that unanimity in expressions of good-will, various proposals of reform by individuals, general opposition to every particular proposal, indifference, if not refusal, to carry out the clear intentions and orders of the British Nation have characterised the attitude of the Civil Service. The Indian politician who has taken any part in Indian public life or who has any experience of the real government of the country, came to the conclusion that under the Indian Civil Service who form and carry on the real Government, no real progress which in the present circumstances of the country is indispensable, can be expected. The result on the part of the constitutionalists is a demand for reforms of the character now put forward. The grievances due to the alleged mis-government and the apparent hopelessness of their redress under the existing conditions are responsible for sedition and revolutionary movement; latterly, the natural desire for self-Government and the forces that have been let loose since the war have reinforced the claim for reform. This general demand had not its origin, as stated in the Reforms Report, solely or mainly in the desire, however natural, of the English educated Indians for an increasing share in the administration or for self-Government, though no doubt there were a few advanced thinkers who might have put forward Home Rule even thirty years ago. Reform was at first regarded simply as a means to improved administration according to English ideals and is even now so held by a considerable section. Matters have now, however, assumed a different aspect and the association of Indians in every branch of Government and self-Government are regarded as an end in itself and the only panacea for the evils complained of.

10. The opponents of this movement maintained that the Congress was started by the Bengalis and the Brahmins of South India, and that India as a whole was not with them. The Mahrathas were invited to declare that they had nothing to do with these Bengali and South Indian agitators. We know now the answer. The Mahomedans were warned that the Government might tolerate the agitation carried on by certain

classes, but they, the Mahomedans will not meet with the same tolerant reception. No efforts were spared to inform them that the Congress was hostile to them. The exigencies of controversy alone can now represent the attitude of the Mahomedans as hostile to reforms. Indeed their advanced section asks for reforms more far-reaching than any that the Hindus claim. Anti-Congress politicians were certain that the races like the Sikhs and other Punjabis at least are bound to be opposed to Home Rule. It is doubtful now whether there are stronger adherents to Home Rule than those in the Punjab. At the last Congress in Delhi it was the determined attitude of the Punjabis that forced the Congress to demand reforms far in excess of those in the Reforms Report. The Non-Brahmins and the Depressed Classes have awakened to a sense of their political helplessness and to their wretched condition, and no longer content to rely upon the Government which has left them in this condition for the past hundred years, claim a powerful voice, in the determination of their future. It is enough to say that they want half the Members of all the Executive Councils, including the Viceroy's, to be Indians, and an elected majority in all the Legislative Councils, without the checks provided by the Grand Committees and State Councils, their interests being adequately protected by what is called communal representation. The demands for a large measure of reform varying from Home Rule to the demands of the depressed classes as stated above have now become general.

11. After the Mutiny, Sir Sayyad Ahmad pointed out that it was absolute ignorance on the part of the Englishmen of the real condition of the country that was responsible for the Mutiny, and he advocated the appointment of Indian members to the Legislative Councils to give the English rulers information of the needs of the country. The men nominated by the Government proved utterly useless for the purpose. Nomination was found to be an absolute failure. The Congress then claimed a representative element in the Legislative Councils in the hope that if the authorities were kept well-informed by the authorised representatives of the nation, the condition of the masses of the country would be vastly improved. Lord Lansdowne introduced an elected element into the councils, but there was no real improvement. All their efforts for more than fifteen years proved abortive. They were told that they did not know the conditions of the country themselves; that the officials knew better; and against their strong protests measures were enacted and a line of conduct pursued which led to the growth of sedition in the country. Lord Morley then enlarged the Legislative Councils to provide real representation of the various classes of the people so that the same reproach might no more be levelled that the Councils did not represent the real voice of the nation. He provided for resolutions to be moved in the council so that the Indians might be able to formulate their views for the consideration of the officials, and the officials might be enabled to give their reasons in reply. He also provided, what is equally important, for the appointment of Indians to the Executive Councils so that they might press acceptance of the popular views upon their colleagues. This experiment has been tried also for a sufficiently long time only to prove its futility; and not only the Congress and popular leaders of the country but all thinking men in

India have come to the conclusion that the existing machinery is insufficient for the peaceful and good governance of the country.

The Reforms Report, therefore, is not only quite right in dwelling upon the political consciousness of the people quickened by the recent events in Europe which demand great political reforms, but it has minimised very much the intensity and volume of that political consciousness. The Report is also quite right in pointing out the growing discontent and the widening gulf between the officials and the non-officials due to the inutility of the Legislative Councils. I think, however, that it has not brought out sufficiently that this is due to the official attitude. I have not thought it necessary to dwell upon the other reason which has been assigned for reform that it is extremely difficult, if not impossible, to initiate or to carry out any progressive policy under the present constitution of the governments in India which has been explained in detail in the Report, as this is generally admitted to be the case.

12. I have referred to the reasons for reform which have been advanced in the Report and they make out a case for a great change, but in the opinion of the political leaders reform is imperative for another reason. It is required in the interests of peace, order and good government, *i.e.*, efficient government according to English ideals. The present system has proved inefficient. The plague disturbances in the Bombay Presidency would not have been allowed to take place under any democratic or popular government The Tinnevelly riots and the murder of Mr. Ashe in the Madras Presidency were due to the latter's interference with Chidambarum Pillai's efforts to improve the lot of the millhands and with the Swadeshi Steam Navigation Company. This again would not have been possible under the ordinary conditions of good government. The occurrences in East Bengal which were the immediate cause of seditious and revolutionary movements also would have been practically impossible under a popular government. The Punjab unrest in 1907 had its origin in a legislative measure which was vetoed by the Imperial Government on account of the opposition of the sepoys and the military classes. The bills now before the Legislative Council to deprive a person of the protection of the ordinary courts of law and of the safeguards which, in civilized countries, have been found necessary to protect the innocent, and to place personal liberty, freedom of the press and speech under the control of the executive, is proof of the necessity of radical reform of a system responsible for a situation which has, in the opinion of Government, rendered such legislation necessary.

The troubles consequent upon the division of society by races, castes and creeds, far from being any impediment in the way of reform, calls imperatively for great political reforms; and there is very good reason to believe that if the leaders of the various communities are left to compose the differences themselves, such conflicts will be far rarer, if they will not entirely disappear.

Great constitutional reforms are also essential in the interests of the masses of this country. The educated classes have failed in their endeavours to bring about any substantial amelioration in their condition. Not only have the Government not taken the necessary steps, but they have not supported the efforts of the educated classes.

Further, the various reforms that are long overdue also call for a

change in the constitution that would render their realization probable. Promises made as regards the admission of Indians into the public services without racial distinctions have not been kept. Reforms in the land revenue administration which are indispensable were promised by the Government, and the promise has been withdrawn. The separation of judicial and executive functions was promised by the Government of India. It has not yet been effected. The orders of Lord Ripon and of Lord Morley about local self-government have been practically disregarded. The wishes of the King-Emperor as regards education have not been carried out. Steps necessary for the revival of industries have not been taken. In all these we have now passed beyond the stage of promise and without actual performance no weight would be given to our declarations.

It is under these conditions that the Congress and the Muslim League and the non-official representatives of the Legislative Council formulated their demands for representative legislative councils, for responsible government by the subordination of the executive to such councils and for a far larger infusion of the Indian element into the executive councils so that the latter might not be in a position to entirely disregard the popular demand, and it was in reply to this demand that the British Government have promised self-government by instalments, substantial steps being taken at once to carry out that promise.

Thus, it is not true that the reforms advocated will result in the transference of powers to persons who are not interested in the welfare of the masses; and it is also quite feasible to transfer power to the masses themselves. The demand for reforms is universal, and such reforms will only result in the application of the British standards and ideals to the Governments in India. With reference to the official view, that they best understand and protect the interests of the masses and that the transfer of power to the educated classes may result to the detriment of the masses, I would draw attention to the recent events in Champeran and Kaira, see appendix (A). They are also instructive for other reasons.

Bearing all this in mind, I proceed to consider the modifications suggested.

Transferred departments.

13. First, to deal with the "transferred" subjects, *i.e.*, the subjects which are presumed to be under the control of the Ministers and the Legislative Councils. According to the Reforms Report, though a Governor does not occupy from the outset the position of a purely constitutional Governor, he is to refuse his assent only when the consequence of acquiescence would clearly be serious. I am not sure whether this is accepted by my colleagues (para. 101). If it is not, and if they contemplate any further interference on the part of the Governor, I am unable to agree with them. The new proposals which they have made seem to contemplate such interference I have no doubt it will be admitted that the Ministers and the Councils will not be able to carry on the administration with any fair degree of success unless they have a loyal service or services which, in their opinion, are competent to carry out the duties which are entrusted to them. Of course at the commencement, as rightly pointed out in the Report, to require Ministers to inaugurate

their services for their own departments would doom the experiment to failure; and the Reforms Report therefore places the machinery of the public service, as it exists to-day, at the disposal of Ministers, adding also that adequate protection must be given to those services. The Government of India now give adequate protection to those services by various provisions to which it is unnecessary here to draw attention. But instead of only placing the public service at the disposal of the Ministers when the new scheme is inaugurated, they would go further and would compel the Minister to accept such officials to carry out their policy. The consequence would be that though the Minister may be saddled with an officer who is so opposed to the opinions of the Minister and of the Legislative Council that he will not loyally carry out the policy determined upon by them, the Minister is to be compelled to retain him although both the Governor and the Minister may want to get rid of him and appoint another person who they think would properly carry it out. Thus, for instance, if the Governor and the Minister want to appoint a sanitary expert from England for carrying out certain sanitary arrangements, they are not to have that liberty, but they will be compelled to appoint a man in the ordinary services. Similarly, if the Governor and the Minister wish to appoint an agricultural expert as the head of certain settlement or agricultural operations in preference to the Civil Service officer who will be ordinarily appointed to it under the rules of the service, they are not to have that right, but they will be compelled to accept a person who would in the ordinary course occupy that position.

We have provided that the appointments of these officers can only be made by or with the sanction of the Secretary of State and subject to any rules that may be made by him. I would, therefore, propose that it should be open to a minister to appoint, with the sanction of the Secretary of State, or request the Secretary of State to appoint any person outside the service for any post under him. The intervention of the Secretary of State should be a sufficient safeguard in such cases.

14. This question becomes of very great importance when we regard their relations with the Governor. According to my colleagues, the permanent heads of departments and the secretaries under a minister should have access to the Governor to bring to his notice any case which they consider that the Governor should see. In fact, the secretary or the permanent head of a department would be entitled to appeal to the Governor against any decision of the minister overruling him. My colleagues also expect that the Governor would direct all cases of particular types and all cases of major importance to be brought to him as a regular practice. The result would naturally be to weaken considerably the position of the minister in relation to his subordinates. In fact, he might be reduced to a figure-head by the Governor and the Secretary. I do not think that this could have been contemplated by the authors of the Reforms Report, and I do not think it right. No secretary or head of a department should have any access to the Governor for this purpose. No one should come between him and the minister. It is one thing for a Governor to tell the member himself that he would like to be consulted on cases of a certain type, and it is a very different thing to allow a secretary to bring to him such cases for decision in appeal against a minister.

15. There is another drastic change proposed by my colleagues. They are of opinion that if any proposal contained in a bill dealing with transferred subjects affects the peace, tranquillity, etc., of a province, or the interests of a specified reserved subject, the Governor should have a right to refer that bill to a grand committee. In actual practice this might practically eliminate the control of the legislative council over even the transferred subjects; because almost all bills referring to transferred subjects may be brought by a Governor, whose order according to my colleagues should not be open to appeal, under one or other of these conditions. To take a concrete instance: If a minister wishes to introduce any measure dealing with sanitation or education, the Governor might refer it to a grand committee on the ground that its alleged unpopularity might possibly provoke disorder. We may, therefore, assume that the legislative councils will in law be as impotent in future in transferred departments as hitherto, and as they will be in the reserved departments in the future. This is opposed to the Reforms Report and I am unable to accept it.

16. Further my colleagues would give power to the Governor and the Secretary of State in certain events to transfer *all* departments from the minister to the executive council. It will be noticed that the Governor has the power to dismiss the minister, he has the power to dissolve the legislative council; but even after this if he finds the legislative councils and all ministers opposed to him, they would give this right of transfer of *every* department from the minister presuming that the Governor must be right and all the councils wrong. They want this as the only possible safeguard against a deadlock, which might be fatal to the administration of a province, as a deterrent to factious and irresponsible action; this view is based upon a gratuitous assumption that actions of the legislative council and the minister will always be factious and irresponsible when such actions are opposed to the opinion of the Governor.

I do not think it should be in the power of a Governor or the Secretary of State who will be only his mouthpiece—to strike thus at the root of the reform scheme. This proposal is entirely opposed both to the letter and spirit of the Reforms Report, which views such proposals with disfavour; the Report would not give such power over the legislature to any executive government and would allow the same, if at all, only after an open enquiry by an impartial parliamentary commission. If two consecutive legislative councils, composed as they would be under the scheme, came to conclusions directly opposed to that of the Governor, the presumption, in my opinion, would be exceedingly strong that the Governor was wrong and their views should be given effect to. To give, in such circumstances, this power is to go against the principles of constitutional government and will be taken as indicative of a spirit incompatible with constitutional government. For any sudden emergencies, there is the power of ordinances, if necessary, by the Viceroy. I would not, therefore, allow this power more especially when it is proposed to confer upon the Government of India certain powers of interference, the exercise of which would adequately meet all possible contingencies.

17. It is proposed to give the Government of India the power of

interference even in the case of transferred subjects for the following purposes:—

(i) to safeguard the administration of Government of India subjects;

(ii) to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province;

(iii) to safeguard the public services to an extent which will be further determined subsequently;

(iv) to decide questions which affect more than one province.

18. Again, my colleagues propose that if the decision taken in the reserved department requires, in the opinion of the Governor, certain action in the transferred department which the minister objects to take, the Governor must be armed with the power to issue orders in the transferred department. It makes no difference in this view that the Governor can pass an order in similar circumstances in the reserved department. The result of this will be further to curtail the powers of the minister.

19. The new proposal about the allocation of the resources available for the purposes of the executive council and those available for the purposes of ministers completes the subordination of the ministers to the executive council. The main sources of revenues, like the land revenue, in the provinces will be under the control of the executive council while all the departments of expenditure, like education, local self-government, including public health and public works, will be under the control of the ministers. These are the departments which stand in need of development. In normal circumstances therefore the revenue which they require will have to be made good to them by the executive council. This places the ministers practically under the control of the executive council. The minister or ministers will not be able to raise money even by taxation without the consent of the Governor, and, as I have already pointed out, it will almost invariably be the case that the bill is one which the Governor would be entitled to refer to the committee for legislation According to my colleagues their proposal will give the ministers a direct interest in improving the sources of revenue which are placed in their charge, but the sources of revenue which are capable of expansion will be, according to the proposals, placed not in their charge but in the charge of the executive council. There will be therefore no resources to be developed except perhaps excise revenue which it should not be our policy to regard as a source of growing revenue. Further I do not accept this theory that all inducement must be held out to a department to increase its revenue for its own benefit. My colleagues further state that the official government should not have the power to refuse funds for the work of the popular half of the government, but according to the proposals the minister will never have that power as the final decision for taxation rests with the Governor and not with the minister. I do not accept the view which seems to result from the proposals of my colleagues that we should punish the people of the country for any dereliction of duty on the part of the minister or the executive council.

20. The cumulative effect of all these provisions is to place the minister and the legislative council in relation to transferred departments

not only in a position of no real responsibility but virtually in subordination to the executive council. The scheme, therefore, of my colleagues is directly against the announcement of the 20th August, as it means altogether a negation of responsibility, and should not therefore be accepted. The departments of which the minister will be placed in charge are bound to suffer under the proposed arrangement; and I have shown in my review of the present situation that they are not likely to receive any favourable treatment at the hands of the executive council.

In so far as this part of the scheme is concerned, my criticism therefore is that while the policy decided upon by His Majesty's Government requires definite responsibility to be laid upon the ministers for certain acts of the government, the Secretary of State and the Viceroy would allow such responsibility only under the general supervision of the Governor; my colleagues would practically get rid of all such responsibility by converting the minister into a subordinate executive officer, and the real legislative council into a subordinate body—subordinate to the Governor and the executive council, the latter being without any responsibility for the consequences,—though my colleagues in terms disclaim any intention to create an inferior government under the superior provincial Government.

"Reserved" subjects.

21. I shall now take up the question of "reserved" subjects. I have already referred to the provisions of the scheme relating to reserved subjects, which show the nature and the influence or power which might be exercised by the minister and the legislative councils (see paragraph 6). The subject is so very important that even at the risk of prolixity or repetition I take the liberty of referring to them again for the purpose of explaining the objections that I advance to the proposals which are now being formulated by my colleagues.

According to the Reforms Report, no taxation, when it becomes necessary even in the interests of reserved subjects, can be imposed in a province without the consent of the minister who is supposed to represent the legislative council. The first essential, therefore, of a popular government is thereby secured. Again, the entire budget, both for the transferred subjects and for the reserved subjects, is to be settled by the executive government as a whole. The minister has, thus, a powerful voice in the settlement of the budget, he is not a mere outsider tendering advice which may be acted upon or not according to the will of the executive council, because unless he is in a position to justify the budget proposals, even as regards the reserved subjects, he will not either undertake new legislation or be able to persuade the legislative council. At the same time he will not have a controlling voice so far as reserved subjects are concerned, because a final decision is to be taken by the executive council alone. Furthermore, even as to reserved subjects, in cases of any disputes between the minister and the executive council with reference to any provision of the budget, the question has to be decided by the Governor, who is also responsible for transferred subjects and who is to act in view of the fact that taxation, if any, can be undertaken only with the consent of the minister. The influence of the minister in these circumstances, will

act on the reserved subjects in the direction of thrift and retrenchment. Similarly, the minister will have the experience and advice of the members of the executive council with reference to his transferred subjects, and he will have to pay serious regard to that advice in determining the relative proportions to be divided among the transferred and reserved subjects; and the influence of the executive council members will therefore be exercised in the direction of thrift and expenditure so far as transferred subjects are concerned. Then, again, this is a very important provision: the entire budget has to be submitted to the legislative council, whose resolutions on the budget will be binding even so far as the reserved subjects are concerned, unless the Governor restores the budget on specific grounds (paragraphs 221, 222, 256 and 257).

The proposals that I have referred to above give the minister and the legislative councils very considerable influence in the most important question of finance and everything that depends on it concerning the reserved subjects. They are satisfactory and based on sound principles. All this influence or power proposed to be bestowed upon them in the Reforms Report will be eliminated if the modifications suggested by my colleagues are accepted.

Modifications proposed by the India Government.

22. They propose to omit the very important provision that the resolutions of the legislative council on the entire budget which is to be submitted to them will be binding on the government unless the Governor exercises his special right of restoring the provision in the budget on any specific ground. The Government of India now would treat every budget resolution only as a recommendation. To my mind, this is a grave departure from the scheme of the Reforms Report. It is said that a Governor would find himself in a very inconvenient position if he had to over-rule a legislative council, and a continuance of that course if the legislative council persists year after year in carrying a resolution with reference to any particular measure would be almost impossible. The very object of the provision is that in the absence of any strong reasons to the contrary the opinion of the legislative council should prevail; and I think this departure from the scheme outlined in the Reforms Report detracts considerably from its value.

23. My Hon'ble colleagues have followed this up by further modifications which practically get rid of all popular and Indian influence.

Instead of one joint budget and one joint purse for the whole government they will create separate purses for ministers and executive council members, respectively, with the result that the budget for transferred subjects will be settled only by the Governor and the minister, and the budget for reserved subjects will be settled only by the Governor and the other members of the executive council. Taxation for the administration of transferred subjects will be left in the hands of the ministers; and, similarly, taxation for reserved subjects will be left entirely in the hands of the executive council members. The rule that the resolutions are binding, unless disallowed or vetoed by the Governor, is not accepted by them. The council's resolutions are to have effect only as recommendations.

The result of all this is that so far as the reserved subjects are

concerned, neither the minister nor the council is to have any real voice in the settlement of the budget. This is avowed to be the real purpose of the new proposals. Real popular influence in the settlement of the budget is, therefore, entirely gone. The minister or popular assembly is not to have the final voice in taxation, as the executive council member alone presents the bill for taxation, and if the legislative assembly does not pass it, it will be open to the Governor to get it passed over their heads by grand committees or otherwise. The influence of the minister on reserved subjects in the direction of thrift and expenditure also is removed. I think it substantially reduces the value of the Reforms Scheme. I am therefore unable to accept any of these modifications in the original proposals which are now suggested.

24. The advantages of this system are said to be that the ministers as well as the executive council will know what their available resources are, what opening balance will be at their credit and consequently what range of expenditure they may provide for and at what point they must face extra taxation. It will secure to each department the benefit of any improvements which can be expected in the revenue departments. It will, therefore, be an inducement to expand and develop the sources of revenue as the fruits of their labours will not be shared by the other departments. It is also said that each may also borrow for its own purposes. Assuming that there are administrative conveniences in the separation of revenues, these administrative conveniences should not be allowed to weigh for a moment against the outstanding fact that you thereby get rid of the popular influence altogether on the finances of the reserved departments. To this great objection I find no answer forthcoming except that it is desirable that all the reserved subjects should be removed entirely from the influences of the ministers and of the legislative council. I cannot agree to this. On the other side there is the objection advanced by the Congress that under the arrangement proposed in the Reforms Report the transferred subjects will only get "the crumbs from the table," and the unwelcome task of taxation is always imposed upon the minister, even though such taxation might have been necessitated by the needs of the reserved subjects. This argument has been availed of by my colleagues in order to support the scheme of a separate purse. It would be extraordinary if an argument intended to strengthen Indian influence should lead to its elimination. I have already referred to the safeguards provided by the scheme. No taxation can be imposed without the consent of the minister, who can earmark the proceeds of taxation. No responsible member of an executive council is therefore likely to press the claims of the reserved subjects too far, and in particular in view of the enquiry by a commission after a few years; and even if he does so, the final decision rests with the Governor, who is interested in the administration both of the transferred and of the other subjects. Apart from all this, the legislative council will review the budget and a responsible Governor has to restore the provision of the budget in favour of the reserved subjects by overruling them. It is improbable, therefore, that the transferred subjects will suffer, and I feel strongly that this argument should not weigh in favour of a separate purse, which will operate far more against popular influence than the existing provision. The apprehension expressed by Indian politicians is really due to the phraseology

in the the report. To remove the same instead of stating that the supply of the reserved subjects will have priority over that of the transferred subjects, I would simply say that the executive government as a whole will apportion the revenue between the transferred and the reserved subjects. If the Ministers and the council members do not agree, the Governor has the right to decide. The is effect absolutely the same, as in the scheme the supply for the reserved subjects can be determined only by the Governor if the Minister does not agree. The proposal of my colleagues that the consent of the Governor is necessary to taxation is a part of the scheme in the Reforms Report whenever there are differences of opinion. After apportionment of the revenue, the necessity of taxation might be considered, the indispensible condition being that provided for in the Report—that there should be no taxation without the consent of the Minister. As to who should introduce the Bill into the Council is a matter which might be left to the Governor. Ordinarily, the member whose department needs the fresh taxation proceeds will no doubt introduce the Bill.

25. I have assumed that there are administrative conveniences in this separation of revenue. It is admitted by my colleagues that the proposals in the Reforms Report have not met with any criticism in India. It will not be right in the circumstances therefore to make any alterations. They point out that any substantial increase in reserved expenditure will be at the mercy of the Minister, although Ministers may have no responsibility for the consequences of refusing the budget provision, but this is an impossible contingency, as in the case of any dispute between the Ministers and the executive council the decision is left to the Governor. In order to support their argument they have to assume that the Governor under his exceptional powers might insist on expenditure on reserved subjects being provided for in the budget leaving Minister with inadequate funds for the transferred subjects. We are not warranted in making any such assumption, and if the Governor is inclined to exercise his power in that direction he can do it even otherwise. What is to happen if the Governor under the powers of supervision and control which he has over the Minister—powers which my colleagues desire largely increased—were to cut down the funds available for the Minister even if they were not wanted for reserved subjects. Such assumption would render the working of any constitution an impossibility.

Further, the income derived from the sources of revenue which form part of the Reserved list will, after providing for the administration of those subjects and of Law, Justice and Police, leave a large surplus which, with the normal growth of revenue, will be adequate to meet the growing expenditure. I doubt whether any taxation or borrowing for the needs of those Departments has been found necessary in the past or will be required in the future. The annual discussion my colleagues would avoid by settlement of Revenue for a period of time. This will interfere with the legitimate exercise of their power over finance by the Legislative Council; such settlement may lead to taxation and borrowing when otherwise it would be unnecessary, and lead to unnecessary friction and criticism divorced from responsibility. Generally I have to state that my colleagues have, throughout their report, made assumptions which are calculated to show the apparent

necessity of a stringent control over the Ministers. All the difficulties suggested by my Colleagues presuppose non-interference under any conditions on the part of the Governor with the Minister and an absence of any provision enabling the Governor to decide in cases of dispute between the Minister and the members of the Executive Council. It appears to me that the provisions in the Reforms Report scheme form a sufficient answer to all the objections advanced.

26. My colleagues are also of opinion that one more official, who will be ordinarily a civilian, should be appointed to the executive council. In the Report the transference of some of the functions of government to Ministers was held to make it "impossible" to retain an executive council of more than two members, one of whom was to be a European and the other an Indian. And this reduction of the European element from two to one was regarded as equivalent to an increase in the Indian element. My Hon'ble colleagues, however, support their proposal on the ground that the Governor—a new man from England—will be left with only one European adviser as a member of his council. And it is also said that work can be found for one more member. It does not appear that the conclusion that was arrived at at the time the Report was framed that there will not be sufficient work for three members of the Executive Council is unfounded. Before 1911 there were only two members. At present there are three. A good portion of their work will now be transferred to the Ministers. I am satisfied that there is no reason, on the score of work, for the appointment of one more member. A stronger objection is that involved in the second reason given in the Report. It will materially reduce the relative strength of the Indian element in the Executive council. An Indian member will have no chance as against two English official members. For consultation and advice, the Secretary in the Department, who will or may be present, will be available. Neither the *adlati* nor any additional member is required. In reserved subjects, therefore, with the modifications proposed by my colleagues with reference to budget and taxation, this addition of one member will practically get rid of the influence or power accorded to the Indians or representative councils in the Reforms Report. In the interests of good govenment, is it advisable or necessary to depart from the scheme?

27. First, let us take the budget and consider the restrictions on the provincial governments imposed by the general standing orders and the Secretary of State. The sanction of the Secretary of State is required to the appointment of any English officer drawing a certain pay; to create any new post which would ordinarily be filled by a gazetted English officer; to create any new post over a certain monthly pay; to give any honorarium exceeding, I believe, a thousand rupees; to make any grant of land except under very special conditions. The right to purchase motor cars was so much abused that now they cannot be purchased for public business without the sanction of the Secretary of State. These are only some of the orders; there are many more of the same kind. All these indicate not only the nature of the restrictions that are imposed upon the provincial governments but also the close supervision which is deemed necessary for the exercise of their powers. There is no reason to think that no such restrictions would be necessary in the future. We propose by these schemes to give the local governments

enhanced powers of appointment—powers* by which they may appoint officers drawing very high salaries, over even a thousand rupees. We propose now to give them powers to carry out schemes, without reference to Government of India or the Secretary of State, which involve lakhs of rupees. If it was necessary for the Government of India or the Secretary of State to exercise this close supervision over the local governments in the interests of the taxpayer, that supervision can only be relaxed on the ground of increasing popular control. Lord Curzon has remarked, and so also I believe almost every administrator who had to consider this question, on the growing tendency in every department to increase the emoluments and to increase the establishments. Far, therefore, from getting rid of the control over the budget by the Legislative Council, it appears to me that the relaxations by the Government of India and the Secretary of State of their power of control, and the additional powers which it is proposed to confer upon the local governments require not only the powers conferred upon the Minister and the Legislative Council by the Reforms Report, but additional powers. Restrictions were placed upon the powers of the governments in India in the appointments of Englishmen because it was felt that otherwise the Indians would have no chance at all.

Similarly, take the questions of industrial expansion, the separation of judicial and executive functions, increase of taxation by recurring settlements without the consent of the legislative councils. All these are really financial questions, and, under the scheme proposed in the Reforms Report, the popular assembly will have considerable influence in shaping the policy of the Government with reference to all these. The proposals of the Government of India will leave the legislative councils and the Minister without any such voice in the settlement of these very great questions. It is therefore a considerable departure from the Reforms Report My colleagues, I am afraid, do not realize the strength of the feeling for reform due to questions referring to these matters* They ignore altogether the very important considerations which arise therefrom. There is no split in the Congress Party or, so far as I can see, among Indians on the broad lines of policy that should be pursued on the matters above referred to. The addresses presented to the Secretary of State and the Viceroy draw prominent attention to these grievances.

I cannot help thinking, in these circumstances, that if these restrictions are removed we may expect great waste of public funds in the future and great and alarming discontent I would, therefore, as already stated as against the new proposals of my colleagues, not only support the scheme in the Reforms Report so far as taxation and budget are concerned, but would go a little further in the same direction by enacting that the Governor's power of restoring any provisions in the budget in the interests of the reserved subjects should not be exercised so as to confer any benefits on the services which they would not obtain in the ordinary course, and the Governor should not be allowed without the sanction of the Secretary of State to restore any provisions in the interests of reserved subjects with reference to any matter for which the sanction of the Secretary of State is now required. It should be remembered that in the case of transferred subjects the council has got

* See paragraphs 8 to 12 above.

the powers of removing the Minister, and a corresponding power does not exist in the care of the reserved subjects.

28. Leaving now the question of the budget, let me take the equally important question of peace and order. If sedition had its origin in Bombay, it would be noticed that this was due to the harsh administration of the plague regulations by a Collector, which would have been impossible if the Indian element was powerful in the government of the country. Similarly the course of maladministration by the Government of Eastern Bengal, which was responsible for the growth of real Bengal sedition, would also have been practically difficult. Under the law which we have recently passed and under certain regulations which were passed at the commencement of the last century to meet certain exceptional classes of cases, it would be open to an executive government in a province to deprive a man of his liberty and of his freedom of speech without the orders of the magistrate or any other judicial tribunal. The press may also be deprived of its freedom by executive action, the ordinary courts being deprived of their jurisdiction. The Governor of a province has the power of depriving a person who attacks him of his liberty of person and of his property without affording him a public opportunity of proving his allegations before the ordinary tribunals of the country. Under this law no Indian paper would venture to indulge in criticisms distasteful to the head of a province. Any agitation against the civil service or bureaucratic form of government would scarcely be possible under the civilian head of a province. The Home Rule agitation, or in fact any constitutional agitation, may be suppressed without the interference of a judicial tribunal solely at the instance of an executive government. In these circumstances it seems to me to be imperative that the Indian element and the popular element should be powerful in the government of a province. Otherwise we will certainly perpetuate all those evils due to the inutility of the Councils which as forcibly pointed out in the report are responsible for the widening gulf between officials and non-officials.

Grand Committees.

29. It is proposed to constitute grand committees out of the members of the legislative councils in order to legislate on "reserved" subjects when the governor considers such legislation "is essential to the discharge of his responsibility for the peace or tranquillity of the province, or any part thereof, or for the discharge of his responsibility for the reserved "subjects." So far as the "reserved" subjects are concerned, it is said that such exceptional means of legislation are required on account of the poverty, ignorance and helplessness of the great majority of the population, who cannot for that reason be left to the mercies of a legislative council who will not adequately protect their interests. Further, it is said that the masses themselves will not take any part in political life, and therefore all such questions concerning the revenue, those arising from the relations of the landlord and tenant, must be retained by the executive government. It is also said that such power is necessary in order to defend British commercial interests and other questions concerning industries, etc. All great questions that arise between classes and creeds also should not be left to the ordinary legislative councils. I have pointed out already that it may well be

doubted whether in the interests of the good government of the country such exceptional powers are necessary. Our electorates are becoming wider; all kinds of interests and views divergent among themselves are going to be represented; and if, in these circumstances, the government cannot secure any majority, the probabilities of their being in error are great. The grand committee, as constituted, is obviously intended as a check on a popular assembly, and is in itself therefore an undesirable institution. It creates an undesirable antagonism between a local executive and a local legislative council, and if there are other means of attaining the same object in view it is undesirable to retain it. I think the safeguard of the Imperial Legislative Council for all affirmative legislation and the powers of veto possessed by the Governor and the Viceroy to negative any Act which is passed by the local legislative council, and the power of ordinance for urgent occasions would be amply sufficient. This would secure a careful consideration of a measure rejected by the local legislative council before its introduction into the Imperial Legislative Council.

The objections to legislation by the Government of India are stated in paragraph 248 of the Reforms Report. The first objection advanced is that such legislation will strike at the root principle of provincial autonomy, according to which the provincial governments must be autonomous in their own legislative field. Provincial autonomy was promised by Lord Hardinge's Delhi Despatch of 1911 for the purpose of increasing popular control. We, therefore, do not want the so-called provincial autonomy if it is intended thereby to increase the power of the executive government over the legislative council. On the other hand, it is a principle recognised by the Reforms Report that the control now exercised by the Government of India and by the Secretary of State over subordinate governments can be relaxed only in proportion to increasing popular control. It is quite right, therefore, that where a provincial legislative council has passed a measure, the Imperial Government or the Secretary of State should interfere as little as possible; but that the local executive government should be able to get passed through a grand committee a measure which has been rejected by the legislative council goes against all these principles. There is in that case no question of real provincial autonomy. It must be borne in mind that the grand committee though technically a part of the legislature is brought into existence and will always be utilized to register the decrees of the executive government and may, therefore, be regarded as its agent for enacting measures rejected by the legislative council. The provincial government becomes independent both of the provincial legislative council and of the Imperial Government; whereas, the proposal I put forward retains the power of the Imperial Government, for it can hardly be doubted that legislation by a grand committee will practically put an end to legislation in the Imperial Council.

The other objection that is advanced that the Government of India would be very reluctant to undertake responsibility by legislation is in my opinion rather a recommendation than an objection as a legislative council should be overruled only in very exceptional cases. The Government of India cannot be accused "of ignorance of local conditions" as they will be acting only on the advice of the local Governments and after full consideration of the discussions in the local legislative council.

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Disregard of provincial wishes is a common factor whether the legislation is by the local executive government or by the Imperial legislative council. The Imperial Government in such a case would be an arbitrator between the local executive government and its legislative council. The "ungrateful" task has to be undertaken by somebody, and it is much better that it should be undertaken by a Government far removed from local excitement. The reason that such legislation is unpopular and controversial is only an argument for subjecting it to examination by a government which is not subject to local temptations of prestige, power and increased revenue. The Imperial Government will be able to attach due weight to the circumstances that may be urged by the local Government and the arguments which induced the local legislative council to reject the measure. I also disagree with the proposal to reduce the elected element in the Grand Committee.

30. We are all agreed that the heads of provinces should, in future, be Governors instead of Lieutenant-Governors (paragraph 218), but my colleagues are of opinion that the existing practice of appointing only civilians in accordance with the rule which requires twelve years' service in India for a Lieutenant-Governorship must be or will be followed for a long time to come. I regret I cannot share in this view. The primary consideration that should weigh with the Secretary of State in making the appointment is the fitness of the person to carry out the duties not, as hitherto, of an autocratic head of a province but of a constitutional ruler. The Civil Service generally have shown their hostility to the proposed reforms. They have expressed their strong opinion of the unfitness of Indians to hold high appointments or to carry out the duties which will devolve upon them as Parliamentary leaders. There will be many persons therefore among them who are not likely to work in harmony with Indians or to view with sympathy their political progress, which must curtail the privileges hitherto enjoyed by their own service. The Secretary of State should certainly therefore take this question into consideration when he makes the appointment. "It may indeed be questioned whether the life spent in the Indian Civil Service is calculated, except in rare cases, to stimulate that part of political talent which consists in the study and guidance of political opinion, or in the framing of the large legislative proposals which are from time to time needed in actively thinking political communities." (*a*) This fact also will have to be borne in mind. Those civilians who are in sympathy with Indian progress or who can be trusted to work smoothly with the political machinery of the future under the altered conditions and who are not prejudiced by the feelings of hostility to the proposed reforms evinced by many of them may be appointed as heads of provinces. I do not think, therefore, that the confident expression of opinion by my colleagues as to the continuance of the practice hitherto existing is justified.

31. The same question arises with reference to the qualifications of a member of the executive council. It is intended, according to the Reforms Report, that one member should be an Indian and the other an official with qualifications of 12 years' service under the Crown which is now required by law. I do not understand the Report to lay down that

(*a*) Mr. H. A. L. Fisher: "The Empire and the Future."

this should be retained as a statutory qualification, though no doubt in practice the qualification will be insisted upon. At present the appointment is in practice limited to the Civil Service. One can easily conceive cases where a Governor might require the presence in his executive council of a person of outstanding abilities in some particular line either in India or in England. There is no reason why the Secretary of State should be debarred from nominating him. My colleagues are of opinion that there must be a statutory provision that one member should be an Indian and that the other should have the existing qualification. I doubt whether this is necessary.

32. The only other point which I have to notice has reference to the right of a Legislative Council to make rules for its own conduct of business. Every Council ought to have such a right, and no reasons have been shown why we should insist upon the consent of the President. The rights and privileges of a President or of a Vice-President, in so far as they do not refer to the ordinary conduct of business, should not, of course, be interfered with.

The Government of India.

33. The first question has reference to responsible government. I recognise that it has been laid down in the Report that there should be no responsibility in the Government of India as in provincial governments, that is to say, that there should be no Indian Minister responsible to the legislature. This can be defended only on the ground that many of the departments of administration have been transferred to the provincial governments, and that those retained by the Government of India are far too important to be handed over to responsible Indian Ministers before the experiments have justified themselves in the provinces. These, of course, are subjects which concern peace and order and the good government of the country, foreign states, Army and Navy, and also questions in which the interests of England or her people are greatly involved. There are, however, questions which only concern the internal administration of the country and which have been recognised as fit for transfer to a Minister and the legislative council. In all those cases, therefore, in which the Government of India retain a right to interfere with the transferred subjects there should be no objection to introducing responsibility in the central government. Indeed responsible government seems to be necessary in order to carry out the principles indicated in the Report. It is proposed to allow powers of interference to the Government of India in the transferred departments of the provinces, for instance, to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province. It is also desired to retain in the Government of India power to decide questions which affect more than one province. *Ex hypothesi*, these are subjects which ordinarily should be dealt with by Ministers in accordance with the will of the local legislature; and if it is proposed to remove these from the jurisdiction of the local Minister and of the legislative council for reasons which have nothing to do with their capacity to deal with questions of that character, it is but reasonable that in the Government of India also the decision of such questions should be left to the legislature and an Indian Minister. If necessary

an Indian member of the executive council may be an Indian Minister for this purpose. Supposing there are certain subjects which are not now transferred for temporary reasons, and of which we contemplate transference in the course of three or four years, I cannot see any reason why in such cases also responsible government should not be introduced so far as such subjects are concerned. Responsible government in the provinces demands responsible government in the Government of India in the same subjects, as otherwise provincial responsibility will be diluted.

The Council of State.

34. The next important question refers to the Council of State. I have very strong objections to the power given to the executive government to pass laws through the Council of State without a previous discussion in the legislative assembly. The Governor-General can exercise his power of issuing ordinances which will operate for six months. If any discussion is necessary, he can introduce the Bill into the Legislative Council to ascertain the popular view. If it is a matter in which the Governor-General in Council has made up his mind, then, of cource, a discussion is useless and unnecessary and an ordinance can at once be issued. Now with reference to the Council of State itself.

A Council of State as a second chamber representing interests not properly represented in the Imperial Assembly, I understand, and I raise no objection to it. A Council of State for the purpose of securing delay and for greater deliberation of subjects also might be necessary, and I would not raise any objection to such a council either. But this Council of State is constituted for neither of these purposes. Its avowed purpose is to carry out the will of the executive government when they cannot carry it out on account of the opposition of the legislative assembly. It is, in fact, an unreal council. Rather than constitute such a council, it is much better to lay on the executive council itself directly the obligation to pass the law. It will not then be exercised so frequently as it would now be with a State Council to give the measure that it passes an unreal appearance of popular support. It will belittle the importance of the legislative assembly and thus create an antagonism between it and the State Council and the executive government.

There is another serious objection. It is undesirable to give the executive council unrestricted freedom of action in matters in which popular opinion is decidedly against it. Disastrous consequences have attended such freedom of action; and as long as the executive government have that power of action, they are bound in the discharge of their responsibility to act upon it if they take a view contrary to that of the legislature. Again, there are great questions of administrative reform which should be carried out and which have not been carried out on account of the opposition of the bureaucracy due to their apprehension of loss of prestige, etc. I have already referred to many of them already. There can be little doubt that a Council of State would check reform as in the past in all those directions. I think, therefore, that the Council of State as constituted will prove an obstruction. At the same time, I recognise that in the Reforms Report it has been laid down that in matters referred to above, there should be no responsibility to the legislature. A *via media* appears to be to direct that

in all cases Bills should first be submitted to the legislative assembly; and on their failure to pass such Bills, all the papers should be laid before the House of Commons to whom the Select Committee would no doubt submit their report; and it is only after such sanction is obtained that further steps should be taken to proceed with the measure, either by the executive council or the Council of State.

Two further courses have been suggested : to confine the Governor-General's or Viceroy's power of certification to certain definite subjects or to curtail the power of certification to those Bills which have not been rejected by a certain percentage of the members of the Legislative Council.

I am clearly of opinion that the power of the Council of State, if it is not to be dropped, should be curtailed.

Budget.

35. It is now proposed to delegate larger powers to the Government of India. It is obvious that if hitherto the interference of the Secretary of State has been necessary in the interests of the Indian taxpayer, and that it has been necessary will appear from the various orders which restrict the Government of India's power of expenditure —then the Secretary of State should be allowed to forego the exercise of his own power only with the development of popular control; otherwise, there is no justification. That the powers hitherto exercised by the Secretary of State were necessary in the interests of the taxpayer will appear from an examination of the instances in which such power has been exercised. It will also appear from a consideration of the rules themselves and the occasions and the reasons which led to the passing of such rules. It appears to me therefore that all resolutions on the budget by the legislative assembly should be given effect to in all those instances in which it would not now be within the competence of the Government of India to incur any outlay without the sanction of the Secretary of State; at any rate, if full effect is not to be given to it, the power to over-rule the legislative council in that respect should not be given to the executive government in India but should rest only with the Secretary of State.

36. I do not agree with my colleagues in discarding the provision about appointing members of the assembly to positions analogous to that of Parliamentary Under Secretaries or the Standing Committees. At present, or under the new scheme, there is no means of non-official members acquiring that knowledge which can be acquired only by holding an office. The knowledge of Indians in the public services will not be available to non-officials for criticism of Government proposals. The Ministers will have intimate knowledge only of the transferred departments and that also only in the provinces. These under secretaryships and standing committees will enable the non-officials to acquire that information which they would otherwise lack. In the earlier stages of discussion, it was generally admitted that these would form a good training ground for future administrators. It is undesirable, therefore, to drop them.

In the Imperial Council also, as in the provincial councils, I think it should be left to the council to frame their own rules.

37. If there is any demand in which the associations who have addressed the Secretary of State and the Viceroy and all classes are unanimous, it is in the request they make that half the members of the Executive Councils, both Provincial and Imperial, should be Indians. The Congress and the Moslem League as well as the Sikhs and the non-Brahmin classes of Madras want it. The reasons are obvious. Everybody feels that without the infusion of an adequate Indian element into the Executive Councils, the reforms that are essential for the better government of the country will not be carried out. Again, there are various questions, particularly those affecting finance, that are settled by the Government of India and by the Secretary of State in consultation with one another which require a strong Indian element in the Executive Council. In all those questions, without adequate Indian influence the Government of India will easily yield to the Secretary of State. Various influences will act upon the Government of India which require adequate Indian influence to counteract them. Indian influence is also required to prevent the Executive Government of India from being unduly autocratic or unsympathetic towards popular movements. I would, therefore, propose the addition of one more Indian member to the two members proposed by the Government of India. If this is not accepted, I would suggest the appointment of an Indian Minister to exercise the Government of India control over the transferred departments in the provinces. He may be called in for consultation but not for decision.

C. SANKARAN NAIR.

Delhi, 5th March 1919.

APPENDIX A.

Champaran ryots case.

The relations between the Indigo planters and the ryots have long been unsatisfactory. There were disturbances. The Government deputed Mr. Gourlay to inquire into these relations. His report is believed to be favourable to the ryots and though repeated requests were made for its publication it was always refused. The Government, however, entered into negotiations with the planters with the result that the claims of the planters were substantially recognized, and certain arrangements were made as to the exercise of their rights. The Government were of opinion that the ryots had no reason to be dissatisfied and that they were really satisfied. In March 1913, however, a member of the Bihar Legislative Council asked for a thorough inquiry by commission or otherwise. The Government gave the reply that the matter was one for settlement by the local officers and the impending settlement operations. For two years nothing was practically done. In January 1915 the question was again raised in the Council when the Government stated that the local authorities had been asked for information and report. In April 1915 a committee of inquiry was again asked for in the Legislative Council. The Government replied that the settlement officers were in every respect a better agency for inquiries than a committee. In 1915 nothing was apparently done. So too in 1916 and the first half of 1917. The Indian National Congress then took up the matter and Mr. Gandhi went to Champaran to make a full inquiry. Mr. Gandhi sought the co-operation of the planters and the District officials in making the inquiry, which he announced he intended to make. The European Association, Bihar, in reply passed these resolutions :—

(1) That the presence of Mr. Gandhi in his self-imposed mission has been accompanied by unrest and crime.

(2) That his continued presence there is likely to be disastrous to the welfare of the Europeans in Champaran and the peace of the district.

(3) That they request the European Central Association in Calcutta to press on the absolute necessity, if they wish to maintain law and order in the Champaran district, to have Mr. Gandhi and his assistants removed from there at once and also that there is great fear of the lawlessness spreading to the neighbouring districts.

Instead of co-operating, the District officials, apparently in obedience to these resolutions, ordered that Mr. Gandhi should leave the district at once. With an ordinary law-abiding Hindu this would have sufficed and nothing more would have been heard of the matter. But Gandhi refused to leave the district, and he was prosecuted. He pleaded guilty. This was an unexpected challenge. The result was, he was not sentenced and the proceedings were dropped. After some

hesitation, due to their early announcement, the Government then acceded to his demand for co-operation in the enquiry that he proposed to make and appointed a committee which consisted of the representatives of the planters, certain officials, Gahdhi, and an Indian zemindar. An arrangement satisfactory to Gandhi was entered into which was accepted by the Bihar Government, who, in the teeth of the strong opposition of the planters, proceeded to legislate. The planters protested to the last. The leading Anglo-Indian paper, a Government apologist, except when the interests of the Anglo-Indians are concerned, thus describes the result :—

"We regret to find in those steps the worst of the faults that can be attributed to bureaucracy. Infirmity of purpose is the key-note throughout, and it manifests itself in the usual symptoms ; a purposeless insistence for as long as possible on secretariat secrecy, and a refusal of requests for discussion when constitutionally put forward, followed by a prompt acceptance of the same requests when the party making them shows a disposition and ability to make things unpleasant for the secretariat ; a professed reliance on the opinions of local officers so long as that profession serves as an excuse for secrecy and delay, followed by abandonment of those opinions when they are found to be inconvenient ; a too obvious desire to evade for as long as possible grasping the nettle of a controversial subject with the inevitable risk of injustice resulting according to the power of one side or the other to put pressure on Government." (*Pioneer*, 13th March 1918.)

It would be difficult to put the case more strongly against the bureaucracy. All peaceful agitation by the ryots failed to move the Government, for the obvious reason that the latter did not like to displease the planters and such agitation only succeeded when the Congress and Gandhi took it up and applied a pressure stronger than that of the planters. It was only then that justice was done. Gandhi, a Home Ruler, as against the Government, is now the idol of the people in that part of the province.

This was in a matter between the Anglo-Indian planters and the ryots. A later instance I propose to refer to, not only to illustrate the same lessons but also to show the condition of the ryots under the Government and the difficulties in their way.

The Kaira case.

For a number of years the district of Kaira in the Bombay Presidency had suffered severely from failures of crops, partial famine, disease, and general agricultural distress. According to the Collector of the district, the crop in a normal year is valued at 12 annas and not 16 annas or more. Owing to excessive monsoon rains towards the end of 1917, the crops had failed. It is a feature of the Revenue rules that individual cases of hardship are not attended to, or, in other words, an individual is not exempted from payment for failure of crops in his holding only, but if there is a failure in the locality he might get relief with others. The ryots sent numerous petitions for suspension of collections of revenue signed by about 20,000 persons. Their prayer was that they were entitled to a suspension of revenue under the Revenue rules as the outturn of their crops was below 4 annas. They demanded that the Government should not force them to pay when they had not obtained from the land crops adequate to cover the revenue. These petitions were returned by the Government with the remark that they were not sent through the proper channel. They were afterwards submitted through the Collector. The District Association, after making enquiries, also petitioned the Government to stop the collection

of revenue. They were told in reply that their intervention was ill-judged and mischievous. Two members of the Legislative Council—the Hon'ble Mr. Parekh and the Hon'ble Mr. Patel—also made detailed inquiries into the matter. They were satisfied of the justice of the complaint and petitioned the Collector, who assured them that he would make inquiries but the collection of revenue was not stopped. On account of these representations, there was, however, some relief granted, *i.e.*, a suspension to the extent of Rs. 1,75,000 where they had asked for Rs. 23,00,000 suspension. A deputation consisting of the Hon'ble Sir Dinshaw Wacha, the Hon'ble Mr. Parekh and the Hon'ble Mr. Patel waited on the Governor, who decided that the estimate of the outturn of the village servants was correct and refused therefore any further relief. An enquiry was undertaken by three members of the Servants of India Society, who found that the excessive rains during the monsoons had "rendered the poor people helpless, quite without an adequate supply of the staple food for 4 or 5 months" and that they were reduced to great destitution. They found the ryots' complaint was well-founded and brought matters to the notice of the Collector, the Commissioner, the Member of Council in charge, and of the Governor, on whose advice they met in conference—the Commissioner and the Collector with Mr. Gandhi. The Commissioner and the Collector promised some relief. Mr. Gandhi requested the Collector to make an enquiry which he might be allowed to attend. This was refused. Mr. Gandhi, however, finding that the evidence collected so far was not adequate to meet the official test, himself went about the district inquiring into the matter and collecting evidence. He also found that the complaint was well-founded. He made representations to the Collector and to the Governor, who replied to him on the 17th and 20th of March, respectively, declining to interfere as they were satisfied that justice had been done. Questions which were submitted to the Government to be put into the Legislative Council for the purpose of eliciting all information about agrarian distress in Kaira were disallowed. On the 23rd of March a resolution was moved in the Legislative Council asking the Government to appoint the Agricultural Department of Government to value the outturn of the crops, or to have the outturn of crops valued by some other agency other than the Revenue officials. On the opposition of Government the resolution was defeated. There was now nothing left to be done by way of ordinary constitutional agitation. A no-rent manifesto was then issued and the ryots went on strike on the 28th of March, taking a vow not to pay revenue. The Government rent or revenue was not paid. Properties, including household utensils, milch cows, were attached; orders of forfeiture of lands were issued by Government and all possible steps were taken by the Revenue officials to enforce payment of revenue. On about the 12th or 13th of April, the Commissioner himself called a meeting of all the ryots and tried to impress upon them the necessity of complying with the Government orders, threatening them with dire consequences in default, and telling them not to heed their advisers, the Home Rulers, who themselves will not suffer in person for the consequences of non-payment of revenue. But the ryots persisted in their attempt. Meetings were held in various parts of India expressing their sympathy with the movement. The Government regarded it as a contest between

themselves and the Home Rulers. Every form of pressure was applied, but the resistance of the people stiffened. The village headmen also turned against the Government. Their reply to Government pressure was:—

> "Whenever we feel that Government's orders conflict with what we regard as our duty to the people, we believe it to be our religious obligation to disobey Government orders...... Before taking this extreme step we have left no stone unturned in politely reasoning with Government, and even now we entreat them to spare us all the suffering, to respect the ryot's vow and to consider popular opinion to be not in any way less worthy of respect than its own."

On the 25th of April the Government suspended the collection of revenue by ordering that only those who were in a position to pay the revenue need do so, and the rest might do it next year. The decision as to who were able and unable to pay the revenue was left to the ryots. But curiously enough, this order was not promulgated till the 3rd of June. Till then the attachment of property and various other proceedings continued. The accused in all the prosecutions never made any defence; they made no appeal against their convictions, and one of them declared on his release after the order of the Collector, that he was a real Home Ruler, "he understood the principles thereof and that he would for ever refuse to recognise laws that did not 'consist' with his conscience."

Under a revenue system where this is possible, progress in material prosperity is, according to Indian politicians, impossible to the ryots. The other conclusions are obvious.

If this was the case under Lord Willingdon, we can imagine what might be the situation under less sympathetic rulers.

His Excellency the Viceroy's address to Heads of Provinces.

Let me first welcome you to another Conference. I believe that those of us who were present at our deliberations last year recognised the value of such meetings, and for myself I can only say that it was and is a great pleasure to have all the heads of local Governments collected together under my roof as my guests. I had hoped this year that we should have been able to discuss the multifarious subjects which are of common interests to us all. But I fear that we shall have little time to deal with more than the one subject, *viz.*, the subject of Reforms, and to-day I do not propose to deal with any other subject. I will not repeat to you the formula of policy enunciated by His Majesty's Government on August 20th, 1917. You are all familiar with it. But it may be useful to cite the three outstanding features of that declaration. First, the progressive realisation of responsible government is given to us as the keynote and objective of our policy; secondly, substantial steps are to be taken at once in this direction; and thirdly, this policy is to be carried out by stages.

I think I shall not be stating the basic principle of this policy unfairly when I sum it up as the gradual transfer of responsibility to Indians. We are not here to discuss the merits or demerits of this policy. It is the policy enunciated by His Majesty's Government. It has been unchallenged in Parliament for the better part of two years, and while I am conscious that there are those who would have preferred some other form of advance, I am sure that even they would agree that it is idle to discuss any variant of it at this stage, but that what we have to do is to attempt to translate the announcement of August 20th into practice.

This was the task to which the Secretary of State and I set our hands last year, and you have the results of our joint attempt in the proposals of the Report. I am not going to travel over the whole field of those proposals, but I intend to confine my remarks to one big problem, really the one big point at issue on which everything else hangs—*viz.*, the method by which this gradual transfer of responsibility is to be achieved.

Believe me, I have no intention of making any debating point this morning. The subject is too important, the issues at stake are too great for dialectics. I shall endeavour to put before you as succinctly as possible the issue as I see it, and nothing more.

The gradual transfer of responsibility—this is what we have to secure. Now what is responsibility? I cannot but think that there has been a good deal of talk and writing which are beside the mark on this subject and perhaps our Report is equally guilty with others in this respect. What are we aiming at in our policy? Surely this, that the decision of certain matters—I will not discuss what—shall rest with Indians; that in these matters it will be for them to say "Yes" or

"No"; and that our scheme shall provide as far as possible for everybody knowing that the yes or no is their yes or no, and not that of the Executive Council. With this end of view, the Secretary of State and I examined the various proposals which were put before us, and after a prolonged and careful investigation we came to the conclusion that we could only attain it by the methods proposed in the Report. We entered upon our enquiry with no bias in favour of dyarchy. Indeed we made every endeavour to avoid it. We were fully conscious of its difficulties. We realise the possibilities of friction inherent in any dyarchic scheme, but we felt that the alternatives proposed had similar difficulties, were equally liable to engender friction and did not provide for (which was our desideratum) the gradual transfer of responsibility.

The Government of Bombay take the line of argument in their reply to the Government of India that the onus of proof is with the supporters of the scheme and not with those who condemn. I only mention this line of argument because I cannot help regarding it as unprofitable, and I hope it will not be pursued in our discussions this week. What we wish to secure is the best method of ensuring the gradual transfer of responsibility. The duty of discovering that method was placed by His Majesty's Government on the Secretary of State and myself. For the reasons set out with great elaboration in our Report we decided upon the scheme outlined therein, and we have published it for criticism. It is not very profitable to tell us that the onus of proof lies upon us. Of course it does and we have endeavoured in the course of 177 folio pages to prove our case. What we want is a scheme which will transfer some responsibility at once, which will provide machinery by which more responsibility can be transferred at later stages, and under which ultimately full responsibility can be attained in the provincial sphere. This is the problem which we have to solve, and I can assure you that no one will be better pleased than myself—and I believe the Secretary of State—if you can provide us with such a scheme.

Under our scheme it will be possible, I believe, to say, so far as the transferred subjects are concerned, that the Minister, and through him the Legislative Council, has said yes or no on a particular question.

Under our scheme it is possible to gradually enlarge the sphere in which the Minister and the Legislative Council will say yes or no.

And under our scheme responsibility in the whole sphere of Government can ultimately be attained.

I am passing by for the moment the criticisms, the very cogent criticisms, which have been made upon the working of our proposals and various details of our scheme. This is not because I ignore or underrate the force of those criticisms, but because I wish to concentrate your attention on the central point, *viz.*, the method by which the gradual transfer of responsibility can be achieved.

In inviting you therefore now to examine the various proposals advanced by certain local Governments as alternatives to our scheme, I would ask you to apply the following tests:—

Firstly, will it be possible under it to fix responsibility on Indians with regard to any particular question of policy?

Secondly, does it provide machinery by which a greater area of responsibility can later be transferred?

Lastly, does it lead up gradually to a stage under which full responsibility can be attained by Indians in the provincial sphere?

I lay stress, as you will see, on the progressive realisation of responsible government, the words of the announcement I should be sorry to see any attempt to content ourselves with a scheme which might dispose of the difficulties of the moment, but did not provide for future expansion and development.

I shall not attempt to deal with the various alternative schemes which have been put forward in the replies of your Governments. But I would make this general remark with regard to them. They seem to me to fall short of our desideratum on one or more of the following points:—

In some there is a duality in fact, camouflaged by an outward unity and not compensated for by the saving grace of transfer of responsibility.

In others there is the gift of power without responsibility, a state of things akin to that proposed in the Congress-Moslem-League scheme, and I would beg you to examine very carefully the searching analysis and criticism of that scheme made in Chapter VII of our Report.

And now I have put before you with perhaps tedious reiteration the problem to which I invite you first to give your attention.

Believe me, I do not regard our Report as in any way verbally inspired. I am only anxious that we should arrive at the right solution. If we can arrive at an agreement as to the method of carrying out the fundamental principle, *viz.*, the transfer of responsibility, we shall at all events have cleared the ground, and we can then examine the machinery which will be necessary.

If your deliberations lead you to agree in preferring some different scheme from that put forward in the Report, then I think it is fair to ask you to develop your alternative in some detail; so that I and my colleagues in the Government of India may have the same chance of judging it as the critics of the Report have had of judging the proposals of the Secretary of State and myself.

January 13th, 1919.

Minute by the Lieutenant-Governors of the United Provinces, Punjab, and Burma and the Chief Commissioners of the Central Provinces and Assam.

We as Heads of Local Governments have been asked by His Excellency the Viceroy to formulate a scheme alternative to that of the joint report and to develop it in some detail in order that he and his colleagues in the Government of India may have the same chance of judging it as the critics have had of judging the report.

2. We desire to make it clear beyond any misunderstanding that we are in entire accord with the statement made by His Majesty's Government on the 20th of August 1917. We desire to give effect to it by a progressive scheme of a truly liberal character based on a policy of trust and co-operation. We desire to avoid future friction by framing a scheme on broad and simple lines which will require only a few checks and those based, as far as possible, on existing practice and accepted principle. We fully realise the undesirability at this stage of departing from published proposals of very high authority, even though those proposals were admittedly published to elicit opinions and although it was mentioned in the statement of the 20th August 1917 that ample opportunity would be afforded for public discussion of the proposals which would be submitted in due course to Parliament. But we are deeply impressed by the weight of adverse criticism of what is known as the scheme of dualism in the report. There is a strong preponderance of local Governments against the scheme. The position has been summarised as follows :—

> " Bengal and Bihar and Orissa treat the main question as closed to discussion, but the former is dubious and the latter guarded in its opinion. Madras is in favour of instituting sub-provinces but otherwise would fall in with the majority opinion. All other local Governments have declared against a dualised executive and wish to maintain the unity of the administration."

There is great division of opinion amongst Indians in regard to it. We are also impressed by the misgivings that exist in the services generally, Indian as well as European, as to their position and prospects under a dual form of government. The scheme exposes a large surface to legislative, administrative and financial friction. It breaks away from all experience and divides the Government against itself. It has all the elements which make for division at a time when there is most need for co-operation and association.

3. The statement of 20th August proclaimed as the policy of His Majesty's Government " The increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire." The statement went on to say that substantial steps in this direction should

be taken as soon as possible, that progress in this policy could only be achieved by successive stages and that the British Government and the Government of India on whom the responsibility lay for the welfare and advancement of the Indian peoples must be the judges of the time and measure of such advance and they must be guided by the co-operation received from those upon whom new opportunities of service would thus be conferred and by the extent to which it was found that confidence could be reposed in their sense of responsibility. The proposals of the report appear to us to have gone much further than the terms of the announcement required but they have raised expectations which may render it necessary to make a greater immediate advance in the direction of the goal than the facts which face us, justify. While the announcement of His Majesty's Government in Parliament rightly placed the association of Indians with the Government in the foreground of the policy, the idea of association has been overshadowed and obscured by the idea of responsibility, or, as it has been aptly put, "the report begins by dividing in order to get responsibility, and ends by uniting in order to get association." We are also firmly of opinion that, especially during a period of transition from one form of government to another, it is clearly advisable, as far as possible, to build up on existing foundations and to have a scheme which, while giving effect to the announcement, will fit in with an administrative system which has its roots in centuries of Indian rule. We believe that it is only by close association between officials and non-officials that we can bridge over the gulf that separates the present system of administration from popular government. We respectfully deprecate the sacrifice of practical experience to constitutional theory. In particular, we fear any clear-cut definition of responsibility in the sense in which it is defined in the report. In the report (paragraph 215) responsibility is defined as consisting primarily in amenability to constituents and in the second place, in amenability to an assembly. We need scarcely argue that in the absence of an electorate capable of enforcing a mandate, these conditions do not yet exist. In the words of the Bengal Government (paragraph 33 of their letter of 15th October 1918) "responsibility can scarcely be derived from an irresponsible source." Under existing conditions, the government is responsible to the Secretary of State, but in practice the government is largely and increasingly influenced by public opinion in the legislative council and outside it. We believe that in the period of transition it would be unsafe to hamper the development and natural growth of a more popular system of government by premature constitutional definitions.

4. We now proceed to outline the alternative scheme which we propose. We are at a great disadvantage in not knowing what are the recommendations of the important committees who are now discussing the questions of franchise, the division of authority between the imperial and provincial governments and the transfer of subjects under the scheme of the report; also in not knowing what will be the terms of the instrument of instructions to Governors (paragraph 219 of the report). It is obvious that the decision as to the electorate must be the foundation of any scheme of popular government. It is clear that owing to religious, caste, social and other divisions amongst the people the electorate will be very different from those of western countries. It is also evident that for some considerable period, we shall be ignorant as

to how the electorate will act. The scheme in the report in this respect is at present a leap in the dark. We content ourselves therefore with an outline of a scheme which is as close as possible to the scheme published in the report but which eliminates those features of dual government that seem to us to imperil the success of its practical working in existing conditions. We will deal with the scheme under the following heads:—

(1) Structure of the provincial executive;
(2) Legislation; and
(3) Supply.

Structure of the provincial executive.

5. We recommended a provincial executive very much on the lines of that described in paragraph 217 of the report. The Governor will have a council with an equal number of official and non-official members, the latter being selected by him from the elected, or in the Punjab, from the elected and nominated, members of the legislative council. We would do away with the distinction between reserved and transferred subjects, and it should be open to the Governor to give any portfolio to any member of his council, whether he be official or non-official. We attach the greatest importance to the non-official members being in the same position and drawing the same salaries as the official members. They would be responsible ultimately to the Secretary of State, but they would necessarily be influenced by the opinions of the legislative council. It is not conceivable to us that the Governor would choose as his colleague elected members of council who were not representative of a substantial body of opinion, because he will have to co-operate with them in his relations with the legislative council. The selected members would be responsible to the electorate in the same way as the ministers under the report scheme (so far as the term responsibility can apply) in that they would have to seek re-election at the end of the life of the council. In this way a unitary Government would be secured. The Government would further be kept in touch with the legislative council by standing committees and under secretaries taken from the council as in the scheme of the report. The standing committees will be a real nexus between the legislative council and the executive government. Sir Harcourt Butler desires to note that in the United Provinces the experiment has been tried for some months of a standing committee of finance which consists of the 6 secretaries to Government, and 6 members elected from the legislative council, and which meets every month. All important proposals of expenditure are referred to the standing committee for advice. Sir Harcourt Butler considers that the scheme has worked extremely well so far and has led to real co-operation between the council and the executive government. We accept the proposals of the Report as the size and general constitution of the legislative council subject to the differences necessitated by provincial conditions which are now being examined by Lord Southborough's committee. We wish to see a substantial elected majority and we wish to give the council very real powers in the matter of legislation and supply. We urge that this constitution will provide an executive, which, though responsible to the Secretary of State, will be largely accountable in practice to the legislative council. And we

believe that this will be a more liberal system in practical working during a period of transition than the scheme of the joint report, in that, in the words of the announcement, it will associate Indians with every branch of the administration. We would only reserve to the Governor the power which he has at present under section 50 of the Government of India Act, 1915, of over-ruling his executive council. We consider that there is immense advantage in maintaining the exact formula by which Parliament has defined the circumstances in which it holds that exceptional powers are justified.

Legislation.

6. We have already outlined the constitution of the legislative council. We accept the powers of legislation proposed in the joint report reserving to the Governor the right of veto.

As regards affirmative legislation, we are prepared to accept the grand committee as in the report though recognizing the force of the objections urged against it; but we think that the Governor should have a perfectly free hand in the selection of the members nominated for the grand committee and we consider that no useful purpose will be served while friction may often be engendered by a final discussion. Sir Reginald Craddock prefers the scheme described in paragraphs 10 and 11 of his minute, dated the 29th November 1918, and we should be prepared to accept it as an alternative. We recommend that the Governor's power of certification should be defined in the terms used in section 50 of the Government of India Act, 1915, *i.e.*, when the safety, tranquillity or interests of his province, or any part thereof, are or may be essentially affected. On an issue capable of such clear definition we consider that there should be no appeal from the Governor's decision.

It is part of our proposals that the existing powers of the Governor General in regard to ordinance and of the Governor General in Council in regard to regulation should remain unimpaired.

Supply.

7. We would allow the budget to be voted by the legislative council, reserving to the Governor-in-Council powers of restoring the original budget provision on occasions covered by the terms of section 50 of the Government of India Act. In regard to financial procedure, we desire to follow as nearly as possible the practice of the House of Commons, and would invite attention in this respect to the criticisms of the Bombay Government in paragraphs 9-11 and of the Bengal Government in paragraph 31 of their letters on the reforms scheme, dated the 11th November 1918 and 15th October 1918, respectively. We also consider that supplementary supply should be voted by the council, subject to the reservation to the executive of necessary powers in regard to emergent and minor expenditure. It is one of the complaints against the present system that lapses of large sums occur during the financial year and that they are re-appropriated without reference to the council, or even to the finance committee.

Resolutions.

8. We accept the recommendations of the joint report in regard to resolutions.

9. We trust that our scheme will be in sufficient outline. We do not regard it as more than a transitional scheme and we recommend that it may be adopted only for a period of years in the course of which experience will be gained on the many points of which we are necessarily in ignorance at present. The advantages of the scheme are that it is based on experience rather than on theory, that it will associate the Indians with government more effectively than will the scheme of the report, that it will avoid the admitted dangers of dual government, and the inevitable friction between the official and non-official elements of government and foster a spirit of harmonious co-operation, that it rests on a system understood by the people, that it is capable of expansion in the light of experience subject to the realisation of the conditions of progress set forth in the announcement of the 20th August 1917.

10. His Excellency has asked us to apply the following test to our proposals :—

Firstly, will it be possible under it to fix responsibility on Indians with regard to any particular question of policy ?

As regards individual responsibility in the executive council our answer is in the negative; also that the announcement does not require it, nor does the scheme of the report secure it (*vide* paragraphs 219, 221 and 240) ; but the responsibility of the individual in the legislative council will be manifest from the proceedings.

Secondly, does it provide machinery by which a greater area of responsibility can later be transferred ?

Our answer is in the affirmative. We do not feel competent to predict future developments or to fix a time-table, but the machinery can be adjust to meet the developments contemplated in the question—

(*a*) by increasing the number of subjects in non-official members' portfolios,

(*b*) by decreasing resort to the use of the powers of the Governor in regard to certification and of the Governor in Council in regard to the budget,

(*c*) by giving more effect to resolutions, and the advice of non-official members in matters of policy, and

(*d*) by increasing the number of councillors chosen from the elected members of the legislative council.

Lastly, does it lead up gradually to a stage under which full responsibility can be attained by Indians in the provincial sphere ?

The answer is in the affirmative.

In answering these questions we understand that the term Indians includes non-officials of all races.

11. We conclude by re-stating our general position. We are drawing up at the request of His Excellency the Viceroy a scheme alternative to that of the report which has been so widely criticised not only by the great majority of local Governments but by many shades of opinion, especially in regard to the novel form of government known as dual government. Except in the matter of the control of the legislative council over supply in transferred subjects, a control which in practice is not often likely to be exercised against the men chosen from the elected members of the council, we consider that our scheme is at least as liberal and progressive as that of the report. It does not comply

with the test of responsibility as defined in the report; but as pointed out by more than one local Government the definition of responsibility in the report is a narrow definition the cardinal conditions of which are non-existent at the present time and cannot be created for some time to come. The definition also overlooks the necessity proclaimed in the announcement of the principle of association and co-operation. We maintain confidently that in any case our scheme is a substantial step towards realising the policy of the announcement and pays due regard to the conditions of progress laid down in it.

M. F. O'DWYER.
HARCOURT BUTLER.
REGINALD CRADDOCK.
*B. ROBERTSON.
N. D. BEATSON BELL.

Dated Delhi, January 15, 1919.

**Minute by the Chief Commissioner, Central Provinces.*

I accept the transitional scheme set forth in the minute. But I am unable to concur in the line of futher development outlined in paragraph 10 (*d*). I should prefer to await the experience gained during the initial period and to leave it open to adopt the dualistic plan of the joint report, despite its admitted drawbacks, as a method of conferring responsibility in progressive stages. Paragraph 10 (*d*), so far as I can see, leads us to the final stage too precipitately.

B. ROBERTSON.

Delhi, January 15, 1919.

Minute by the Governor of Bengal and the Lieutenant-Governor of Bihar and Orissa.

When the question of reform was discussed by the Heads of local Governments assembled in Delhi last year general agreement was reached on the basis of the procedure outlined in paragraph 217 of the joint report. A more rapid advance, however, has been advocated by the authors of the joint report and we think that although in theory the whole question is still an open one, the fact that the proposals in the joint report have been prepared by His Excellency the Viceroy and the Secretary of State and have been published with the permission of the Cabinet has given rise to the confident expectation that these proposals, or something equivalent to them, will be carried into effect. If any material abatement were now made, it would be believed by almost all educated Indians that the Government had been guilty of a breach of faith, and that the scheme had been put forward merely with the object of keeping India quiet during the war. It seems to us infinitely better that we should go further than we should otherwise have deemed it expedient to do rather than lay ourselves open to such a damaging imputation, and from this point of view we are prepared to support the scheme put forward in the joint report as preferable to any other scheme which has been devised as providing approximately the same extension of popular power.

2. We prefer the general plan of the scheme propounded in the joint report to that which has now been put forward, because the former reserves for the executive government full control over the really essential subjects, while giving to the ministers (within very wide limits) full control over the transferred subjects and thereby enabling them to combine power with responsibility. This is not only more in accordance with the pronouncement of the 20th of August 1917, but it will serve more than anything else to turn the Indian politicians into practical men and to prevent wild proposals from being pressed by them. There will also, we think, be less chance of discord under this scheme than under the alternative one where non-official members of the executive council will have their say in all matters—and will naturally press the views of their colleagues in the legislative council—without having the power to carry them against the official members. It is true that if the scheme of the joint report be adopted there will be continued agitation for an increase in the number of transferred subjects. But under the alternative scheme there will be an equally strong agitation for an increase in the number of non-official members of the government; and concession to that agitation would be far more dangerous, as it would involve a sudden transfer of all power from the official to the non-official members, subject to the power vested in the Governor by section 50 of the Government of India Act, which however he could exercise only on very special occasions.

3. Under the scheme of the joint report ministers will owe their appointments to the Governor. It may be presumed that they will be reasonable men who will reciprocate a policy of good-will and mutual

respect and accommodation, and we regard many of the objections to the scheme as theoretical and not likely to occur in practice. For instance, much has been made of the difficulty of separating transferred from reserved subjects, but if the fact that subjects overlap does not prevent them from being distributed among different members of council under the existing system of council government, it is not clear why it should prevent them from being distributed between members and ministers. Moreover, in actual practice, except on the technical question of financial regularity, the members in charge of the subjects which it is proposed to transfer seldom have to refer their proposals to other Departments. In the small number of cases where there is real overlapping the procedure laid down in paragraph 221 leaves the ultimate decision with the Governor.

4. It is not our intention to write a detailed criticism of the proposals embodied in the memorandum now put up by certain local Governments; but since our dissent from them is necessarily based largely upon the objections to which they are open, we would point out one defect of a serious nature from which they suffer. The authors of the scheme seek to avoid making any part of the executive responsible to the legislature, and since they confer upon the legislature the power of refusing supply they are driven back upon the expedient of authorising the Governor in Council to reverse decisions of the legislature. If in practice it was found possible to exercise this power upon all occasions on which the executive government thought it desirable, the result would obviously be that the authors of the memorandum had taken away with one hand what they had ostensibly given with the other. But would it be possible in practice for the Governor in Council to exercise this power upon other than exceptional occasions? We think not; and in the result, therefore, it would be found that in their anxiety to avoid making any part of the executive responsible to the legislature, the authors of the scheme would have succeeded in making the whole of the executive amenable to the legislature. We think that this is a serious objection to the scheme.

5. We have perhaps said sufficient to justify our dissent. We readily admit that the proposals, in the joint report have no parallel elsewhere; but neither has the problem which it is desired to solve—nor might it be added has the scheme which is now put forward as an alternative.

RONALDSHAY.
E. A. GAIT.

Delhi, January 16, 1919.

Minute by the Governor of Bombay.

Owing to the industrial disturbances in Bombay which prevented my attending the recent Conference of Heads of Governments at Delhi, I was unable to state my views in regard to the scheme of Constitutional Reforms which were under discussion.

I have arrived in India too recently and since my arrival been too preoccupied with the local condition of affairs in Bombay to form any mature judgment upon the rival merits of the scheme put forward by my predecessor's Government, and that proposed by the Secretary of State and Viceroy.

In these circumstances I am only concerned to express my profound conviction, held before I arrived in India and deepened still further in the few weeks I have been in India, that time is a factor of vital importance in the consideration of the whole question of reform. I am convinced that delay is a greater danger even than an imperfect scheme, and that those of us on whom must fall the heavy burden of putting reforms schemes into actual operation, will be better able to work an imperfect scheme with the good-will and confidence of all concerned than to operate a more perfect scheme—if one can be devised—when confidence and good-will has been broken and alienated by disappointment and delay.

G. LLOYD.

February 1919.

Extract from a speech by His Excellency the Viceroy in the Indian Legislative Council dated February 6, 1919.

*   *   *   *   *

"You will expect me now to say something in regard to the Reform proposals. The Committees under the chairmanship of Lord Southborough are now sitting in Delhi, and hope in conjunction with the Government of India to lay their Report shortly before His Majesty's Government. I have dealt on other occasions with various aspects of this important question. To-day I wish to deal more particularly with the position of the services and the English commercial community.

"It is indeed natural that the services should feel keen anxiety as to their place in the future scheme of things. The Secretary of State and I could not within the compass of our report elaborate in full detail all the issues arising out of our proposals for Reform, but now that the criticisms and discussions of the past months have brought home to us something of the misgivings and anxieties which our services are feeling, I propose to take this opportunity of stating, as clearly as I can, what my conception of their future position is.

"And first let me say this. The services of India have just come through a long period of exceptional strain. Their strength has been seriously depleted by the war. They have been called upon not merely to run the administration with a far weaker staff; not merely to help to steady men's minds during periods of depression and alarm; but they have also had to organise and promote many forms of war activity. It has been out of the question to let them take leave, and so they have stayed at their posts year after year doing double work, often to the detriment of their health and commonly at the sacrifice of domestic comfort. They have been hard hit by rising prices; and they have come in for attacks arising out of the agitation in connection with reforms which have sometimes been ungenerous and unfair. But they have risen superior to all these things, and as Viceroy I am proud and glad to acknowledge on behalf of my Government the part they have played in keeping India contented and quiet, and in helping to win the war. And now the war is over, and they seem to see before them difficulties and sacrifices greater still. I want the services to know that my Government and I are fully cognisant and deeply appreciative of all these things.

"Let me state then, as clearly as I can, what I conceive to be the governing conditions of this problem. The changes which we are setting about in India must gradually involve a profound alteration in the position of the public services. Hitherto the great administrative and technical bodies of men recruited from England — such as the Indian Civil Service, the Indian Police, the Indian Medical Service, the Indian Education Service, the Indian Forest Service, the Public Works Department — have not been civil services in the sense in which that word is generally understood. I have indeed seen criticisms which assumed that our public services had usurped to themselves a place which Parliament never assigned to them. That, as every reader of history knows, is a

wholly wrong and unfair suggestion. The services were sent to India by Parliament not as the executive agents of a popular government in India, but to administer the country under the official Government of India. No one else could have done the work which they have done. They could not have done it themselves, had their position been different. Now with the introduction of responsible government in India, however limited at first, a change must begin. If we set up ministers, ministers must administer; and the permanent services must execute. That is so well accepted a maxim of our British policy that no one will dispute it. This then is my first proposition.

"But to suppose as has been alleged that we propose to place the services as a whole in helpless subordination to inexperienced and possibly hostile ministers; that we intend not merely to deprive them of power, but to require them blindly to execute policies which they cannot reconcile with their self-respect is very seriously to misconceive our purpose. Let me explain at once why that is impossible. Progress to further constitutional growth in India is to come not by a process of drift; not by the English Departments or Governments throwing up the sponge out of weariness or a sense that they are fighting a losing game; not by our taking back our hand from the plough; but by the response made by Indians to the great opportunity now offered them — by the measured verdict of the highest outside impartial authority upon their performance. It is recognised at the present moment that the time is not ripe for Indians to take over the entire management of the country. Every moderate and thoughtful Indian admits that truth himself. And government, believe me, is not the simple thing it may sometimes seem. The help of the services trained, efficient, impartial, with their high standards of duty, of character, of the public interest, is absolutely essential if this vast experiment is to succeed. We cannot afford and we do not mean to lose them until India acquires, what she has not got at present, something approximately as good to put in their place. That is my second proposition.

"The Secretary of State and I have declared our intention to protect the services in the defence of their rights and the discharge of their duties. I see that apprehensions have been aroused by the general character of this phraseology. Let me now, speaking for myself and my Government, endeavour to give precision to the undertaking. In the first place as regards their pay and pensions. I propose that the pay, pensions, leave and conditions of service generally of the services recruited from England shall be guaranteed at least by statutory orders of the Secretary of State, which no authority in India will have power to disregard or vary. My idea is that the all-India services are to be retained, as in a mould cast by Parliament and the Secretary of State, as an examplar to all the services drawn exclusively from India. In this respect, therefore, I see no cause for disquiet.

"I pass to a more difficult question, and one which I know is causing more doubt than any mere questions of money — the position of the services who are under Indian ministers. Now I am not going to recite the series of ways in which I conceive it possible that difficulty may arise. I ask you to take it from me that my Government and I have considered this field very anxiously and have had vividly before our minds the sort of troubles that may arise over postings or promotions or policy or

professional questions or discipline. How then can these potential difficulties be mitigated? In the first place, we hope to get as ministers responsible men who will realize how greatly the services can help them. There is more in this than a pious hope. We may look to what has happened elsewhere. It has often been the case that men going in fresh to office, full of prejudice against the public services, have found them their best ally and protector against the critics which every administrator encounters, and have ended by gaining the full confidence of the service and giving the service theirs. Secondly, we do not intend to leave the handling of the services wholly to the minister. We propose to instruct the Governor, in a published instrument, that we lay on him a personal responsibility for securing the welfare of the services. He will disallow proposals that aim or tend towards their disintegration. The head of every department under ministers will have access to the Governor. He will be in a position to represent difficulties to him before they become acute; and it will be for the Governor to deal with them by influence and persuasion, and finally by tactful exercise of authority. Lastly, we propose to secure all existing rights of appeal to the Government of India and the Secretary of State whenever an officer is prejudicially affected as regards emoluments or pension by a minister's order.

"How these arrangements will work, you and I can only leave it to experience to show. But I think that the services will accept them as an earnest attempt to fulfil the pledges which we have given. It may be that even more provisions will be required. But about those I will say nothing at present, because I am anxious to give no countenance to the idea that the services will find their position made impossible. I will merely add that the Government of India will always regard this question of the fair treatment of the services as one of the cardinal test by which our great experiment will be judged.

"Let me now turn to the very important matter of British commercial interests in this country. It would distress me profoundly if I thought that we could with justice be accused of under-rating either the colossal financial interests at stake, or the enormous part which British non-official energy, character and brains have played in the task of making India what she is. For myself I regarded these facts as self-evident and thought that, so far as it was necessary to reassure this important community, we had in our report made our attitude twards them quite clear. However, the complaint has been made that we have dealt too summarily with the subject. So let me emphasise our intentions. I have not found by the way in the papers of a year ago, or the criticisms just received, any reasoned statement of the ways in which it is supposed that British trade interests may be jeopardised by the changes which we have in view. I note, however, that in the joint address which some representatives of European commerce in Calcutta signed last year, reference was made to the risk of injury by 'predatory or regulative legislation' or the neglect of transportation and other facilities; and I see that the Bengal Chamber of Commerce appear to have chiefly in mind proposals for provincial taxation likely to prejudice commerce or industry.

"Now let me explain the position as I see it. The legislation on which British commerce in the main depends is mainly all-India in character. Some of it is embodied in the great commercial codes;

some of it deals with matters of peculiar interest to industry like railways, factories, petroleum, explosives or mines. Now inasmuch as these will remain with the Government of India, who will, as I have laid down more than once, retain indisputable authority, there is surely no reasonable ground for apprehension. Commerce can make its voice heard just as effectively as heretofore. It may be said however that, in the future, Provincial Councils will exercise more freely the power of amending all-India Acts. But that they can only do with the previous sanction of the Governor General. In any case there is the safeguard of the triple veto of the Governor, the Governor General and the Crown ; and this applies to all provincial legislation.

"It seems to me indeed that the control of the matters of peculiar interest to European commerce is to a great extent concentrated in the hands of the Government of India. I am thinking of the tariff and the currency ; of banking, railways, shippinge, posts and telegraphs. In these respects no existing measure of security is being diminished, and therefore apprehension is surely groundless.

"But evidently it is in the minds of some people that in the provincial sphere it will be possible injuriously to affect the commercial community. Say, for instance, by special interests being singied out to bear the burden of provincial taxation or by rival interests being artificially stimulated by bounties. What protection will their be in such cases ? Well, the Secretary of State and I have pledged ourselves in paragraph 344 to reserve to Government power to protect any industry from prejudiced attack or privileged competition. To speak for myself, I believe this can be secured by embodying this undertaking in the instrument of instructions given to the Governor on appointment, wherein he will be informed that His Majesty's Government lay on him a responsibility for seeing that the pledge is made good. With such a public document in his hands the Governor, with the Government of India and Secretary of State behind him, would be in very strong position to resist all proposals of his ministers which appeared to him to be acts of hostility to British commerce. Their will moreover be representatives of that interest sitting in the provincial chamber; and I cannot do them the injustice of supposing that they will fail to bring any just grievance effectively to the Governor's notice, or if need be to remind him of his responsibility."

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No. 950, dated July 15, 1918.

From—S.R. HIGNELL, Esq., C.I.E., Officiating Secretary to the Government of India,

To—The Chief Secretary to the Government of Madras.
The Chief Secretary to the Government of Bombay.
The Chief Secretary to the Government of Bengal.
The Chief Secretary to the Government of the United Provinces.
The Chief Secretary to the Government of the Punjab.
The Chief Secretary to the Government of Bihar and Orissa.
The Hon'ble the Chief Commissioner of the Central Provinces.
The Hon'ble the Chief Commissioner of Assam.

I am directed to address you on the subject of the proposals contained in the Report by His Excellency the Viceroy and the Secretary of State

on Indian Constitutional Reforms. The Government of India will be

His Excellency the Governor in Council
glad if His Honour the Lieutenant-Governor (in Council) will take an early oppor-
you

tunity of examining these proposals and of initiating such steps as will enable him / you to furnish the Government of India with his / your views as early as possible. The ground covered in the Report is extremely wide, but the actual constructive proposals are confined to Chapters VIII to XI. Chapter X deals entirely with problems presented by the Native States and is outside the scope of the present reference. In so far as local Governments and Administrations are concerned in the proposals contained in that Chapter they will be consulted separately by the Foreign and Political Department. A number of miscellaneous questions are discussed in Chapter XI and in regard to them also separate references will, where necessary, be made. His Excellency the Governor in Council has / His Honour the Lieutenant-Governor (in Council) has / you have already been addressed on the subject of the financial relations between the Imperial and the Provincial Governments, Provincial taxation and Provincial borrowing and in replying to the present letter no reference need be made to the proposals contained in paragraphs 201 to 211 of the Report. The proposals on which I am now to invite an expression of opinion are, therefore, those contained in paragraphs 212 to 295. Many of the questions discussed in those paragraphs have been before the public for a considerable time, and the Government of India will proceed on the assumption that all local Governments and Administrations will be able to communicate their considered opinions on the proposals by the 1st November at latest. With this object I am to suggest that as regards individuals His Excellency the Governor in Council / His Honour the Lieutenant-Governor (in Council) / you should consult only selected officials and non-officials and that he / you should impress on the public associations and bodies from whom he / you may consider it advisable to invite an expression of their views that it is of the utmost importance that they should take the subject into immediate consideration as it is essential that the Government of India should receive these views with as little delay as pssible.

2. It will greatly facilitate the examination and consideration of the opinions submitted by local Governments and Administrations if [with the permission of His Excellency the Governor in Council / His Honour the Lieutenant-Governor in Council —] these are arranged so far as possible in the order in which the subjects are dealt with in the Report.

(3. With reference to the correspondence ending with the Home Department letter no. 678, dated the 11th June 1918, I am to say that it will not now be necessary for the Government of India to be supplied with the detailed proposals on the subject of administrative devolution which they asked for in paragraph 13 of the Home Department letter no. 248, dated the

( ) **not to Punjab.**

[ ] to Punjab only. 11th December 1917. It will, however,) [With reference to the correspondence ending with your letter no. 1539, dated the 19th January 1918, on the subject of administrative devolution, I am to say that it will] be necessary for Madras / the Government of etc. / you to be prepared beforehand with the material which will be required by the Committee, whose appointment is contemplated in paragraph 238 of the Report and whose investigations, it will be seen, will cover far wider ground than that of the reference of December 11th, 1917, and I am to ask that [with the permission of [ ] to Punjab only. His Excellency the Governor in Council / His Honour the Lieutenant-Governor (in Council)] this material may be collected with as little delay as possible. It would also be convenient if the Government of India were placed in possession of the results as soon as they have taken definite shape.

4. In paragraph 15 of the Home Department letter no. 248-R., dated December 11th, 1917, it was suggested that local Governments should institute detailed inquiries throughout the various districts so as to enable them to form some idea of what would be a reasonable franchise and of the reasultant strength of electorates and the size and number of suitable constituencies. I am to ask that [with the permission of His Excellency the Governor in Council / His Honour the Lieutenant-Governor (in Council)] steps may be taken to collect the necessary materials as soon as possible in order that they may be placed in the hands of the Committee, whose appointment is contemplated in paragraph 225 of the Report, as soon as it is constituted. The Government of India would be glad if they could be placed in possession of this material also, as soon as it is ready.

No. 956.

A copy of the marginally-noted paper is fowarded to the Delhi / Chief Commissioner of Coorg / Foreign and Political Dept. for information. (The Government of India would be glad of his views on the proposals) [and for such actionas may be considered necessary].

Home Department letter no 950, dated the 15th July 1918.
( ) to Delhi and Coorg.
[ ] to Foreign and Political Department.

No. 951, dated July 15, 1918.

From—S. R. HIGNELL, Esq., C.I.E., Officiating Secretary to the Government of India,

To—The Chief Secretary to the Government of Burma.

I am directed to forward a copy of letter which has been addressed to all local Governments and Administrations other than Burma on the subject of the proposals contained in the report by His Excellency the Viceroy and the Secretary of State on Indian Constitutional Reforms. As His Honour the Lieutenant-Governor is aware, the special circumstances and local conditions of Burma removed the province largely from the scope of the enquiry which has

resulted in the Reforms Report, but I am to ask that the Government of India may be favoured by November 1 at latest with the opinion of the local Government on the proposals contained in the report with particular reference to their applicability to Burma. In this connection I am to invite attention to the remarks contained in paragraph 198 of the report.

With the reservation made in the previous paragraph, I am to ask that the procedure suggested to other local Governments and Administrations in regard to the examination and consideration of the report may be followed by the local Government.

No. 948, dated Fort St. George, the 19th October 1918.

From—The HON'BLE MR. C. G. TODHUNTER, I.C.S., Acting Chief Secretary to the Government of Madras,

To—The Secretary to the Government of India, Home Department.

In reply to Mr. Hignell's letter no. 950, dated the 15th July 1918, I am directed to submit the following statement of the views of His Excellency the Governor in Council in the proposals embodied in paragraphs 212 to 295 of the report on Indian Constitutional Reforms.

2. I am to state that, as a preliminary to examining these proposals, His Excellency in Councel invited an expression of opinion from twenty-three officials of high standing, twenty-four unofficial gentlemen and fifteen public associations or bodies. Of those consulted thirty-six took advantage of the opportunity given to them and furnished replies in sufficient time to admit of consideration by the Governor in Council. A copy of these opinions is appended to this letter.

3. In order to comply as nearly as may be with the request that the discussion of the subject dealt with in the report should follow, as far as possible, the arrangement of the report itself, I am to refer in the first place to the subject of the Provincial Executives which is dealt with in paragraphs 214 to 224 of the report. As a preliminary criticism, I am to suggest that the assumption in paragraph 214 of the necessity for the adoption of a uniform system in all the Provinces, whether more advanced or less advanced, is incorrect. India is a vast country, divided into provinces of very varying degrees of education, wealth and general progress. What may suit Bombay, may be wholly inapplicable to Assam, the Punjab or Burma, and Madras conditions differ fundamentally from those of Northern or Western India. As the system of a Governor in Council already exists in this Presidency, His Excellency in Council is not directly concerned with the suggestions contained in paragraph 214, but he draws attention to the matter as indicating an inadequate conception of the true conditions of the problems.

4. The next paragraph of the report introduces the principle which is the distinguishing feature of the proposals, namely, that the functions of the Provincial Government should be divided into two parts, one of which may be made over to popular control while the other remains for the present in official hands. The first remark which His Excellency in Council wishes to make is that, so far as he has been able to ascertain, this expedient has never yet been resorted to in any part of the world. Certain Colonial precedents have indeed been cited

as analogous to the proposed "diarchy" or "dualism" but these analogies are, in the opinion of the Government, unsound and the proposal now put forward constitutes, they believe, an entirely new and hitherto untried experiment. The second remark which the proposed arrangement calls for is that in applying this experiment to British India it will be made in unfavourable conditions. If the division of functions between popular control and official control were introduced in a country in which the people and the Government were of common race, religion and language, it might have some prospect of success. But to apply it to India, where the Government differs in each of these respects from the population governed, is to undertake the experiment in circumstances involving a maximum amount of difficulty.

5. When proposals for constitutional reform were first invited, certain guiding considerations were put forward, *viz.*, that the devolution of power proposed should be real and not a sham, that it should be such as not to invite immediate further demands or allow of the Governments being compelled by clamour to surrender its functions prematurely, and that it should be so framed as to diminish friction and induce a spirit of good-will and a habit of co-operation. It does not appear to His Excellency in Council that these conditions are satisfied by the scheme of the joint report. The transfer to popular control of a definite portion of the functions of Government is an admission that such transfer is permissible and salutary and will be a direct inducement to further demands. It seems therefore to contradict the guiding consideration that the scheme to be chosen should, if possible, not be such as to invite immediate further demands, while when once the unity of function in the administration is invaded, there is no clear line of demarcation which can be relied on to prevent the extension of popular control. By dividing the Government into two parts, one popular and elective in origin, the other official and non-elective, the prospects of friction arising between these two opposing halves must be very considerable. The scheme thus seems likely to increase and not to diminish friction, while in so far as it contains safeguards to prevent the elected representatives from exercising full control, it will be liable to be represented as not being a real measure of advance but a sham. Moreover, in India especially, such a division as is here contemplated, is likely to fail. To the great mass of the people of India, such refinement as the distinction between Ministers and Councillors will fail to be appreciated. They have been accustomed for countless generations to regard the Sircar as one and indivisible, and the proposed 'diarchy' will be unintelligible. Whatever credit or discredit arises from the acts or omissions of Ministers will fall on the collective Government who will thus be held responsible for matters over which they have no control.

6. This obscuring of responsibility seems to be a matter to which considerable importance attaches. It is proposed in paragraph 260 to subject the working of the scheme to searching examination after a trial of five years, but those who are entrusted with this investigation will find themselves confronted at the outset with the task of apportioning responsibility for possible and by no means improbable failure between the various component parts of the Government and it will be a matter of extreme difficulty to determine where to place the blame, whether upon the Governor, his Executive Councillors, his Ministers or the

Legislative Council and the complex device of the Grand Committee. If there is no clear line of division between the responsibility of Ministers and those of the rest of the Government, and if as stated in paragraph 219 of the Report, the Governor is to be regarded as generally responsible for the administration, it does not appear to His Excellency in Council that any real experiment will result, nor can it be claimed, as is done in paragraph 222 of the Report, that some measure of responsibility will be at once established. If it were desired at once to effect these objects, it would seem necessary, though His Excellency the Governor in Council does not recommend it, that the Governor's functions should be from the outset limited to the giving of advice to Ministers and that he should not, except in matters of extreme urgency or national importance, proceed further and actually refuse assent to their proposals.

7. The proposals contained in paragraph 218 of the report relative to the appointment of Ministers appear to be open to grave criticism. The Ministers are to be chosen from among the elected members of the Legislative Council, but are not themselves to be elected by the Council or responsible to it. It will, therefore, be possible for the Minister to be in direct opposition to the opinions of the majority of the Council. It is claimed in the report (paragraph 222) that the device adopted establishes at once some measure of responsibility, for the Minister can hold office only so long as he retains his seat and thus a measure of responsibility to his immediate constituents is created. But this seems to overlook the possibility that a Minister who desires to retain his seat and office is not unlikely to take steps to secure the suffrages of his constituents. Thus the theory of responsibility to the Legislative Councils is liable at once to break down. When the subject of the budget is reached, the dangers of the position will appear even more clearly. The proposals of the Minister as embodied in the budget will be liable to be reversed by a vote of the majority in the Council, but neither he himself nor the Governor will be able to intervene. The Minister's only remedy will be to resign, but should he prefer to retain office, the extraordinary spectacle will be witnessed of a Minister carrying out a policy for which he is not responsible at the bidding of a majority which has no control over the manner in which it is carried out otherwise than through the budget allotments. It appears to His Excellency in Council that such an arrangement is fraught with great possibilities of confusion and mischief and is liable to result in the gravest complications and difficulties. If the system proposed in the Report is to be adopted at all, it appears to be desirable that direct responsibility to the Legislative Council should be introduced at once.

8. Turning next to the other portion of the Government, namely, the Executive Council, the proposal that it should consist in all Provinces of the same number of members, *viz.*, two, is a further instance of the tendency of the Report to attempt to arrive at uniformity irrespective of the true needs of the situation. The conditions of the various provinces vary as greatly as their population, wealth and education, and the Governor in Council would therefore deprecate any attempt to fix a uniform strength of the Executive Council which is to apply as a hard and fast rule in all Provinces. The number of Councillors should depend upon the volume of work to be done and until the selection of the

transferred subjects has been made it is difficult to know what the volume of work will be. As, at present, His Excellency the Governor has direct charge of more than one department, the work is already shared by four members of the Government. In view of the immense responsibilities which are proposed to be thrown on the Governor by the scheme proposed in the Report, it will hardly be possible for him to have direct charge of any department. Unless therefore the number of transferred departments in much larger than is likely to be made at the outset, His Excellency the Governor in Council is strongly of opinion that in this Presidency no reduction in the existing strength of the Executive Council should be made. The volume of business is already much larger than can properly be dealt with by four men; it must grow as wealth and education increase and it is probable that it will be further increased if changes such as those contemplated in the joint report are introduced. The need for more frequent joint deliberation is already felt. At present, though each councillor is primarily responsible for his own subjects, he would often be glad to have the opportunity of discussing important subjects with his colleagues; but the mass of work which comes before him is such as to discourage this practice. Nor can members of the Executive Council command sufficient time to enable them to make tours of inspection, though such visits would be an invaluable means of keeping in touch with popular feeling outside the Presidency Town as well as of determining matters needing local inspection.

9. The device which is put forward in paragraph 220 of the Report under which one or two additional officials should be designated Members of Council without portfolios or power to vote does not commend itself to this Government. So far as this Presidency is concerned, it will be unnecessary if the Council is maintained at its present strength, as above recommended; but apart from this, it appears to His Excellency in Council that councillors without either portfolio, vote or salary would be councillors only in name and that there is no adequate reason for such formal appointments, seeing, as is admitted, that it is always open to the Governor to seek the advice of any of his officials.

10. The position of the Governor under the scheme cannot fail to be one of extreme difficulty, having regard to the variety of responsibilities which are imposed upon him. It seems to His Excellency the Governor in Council that there must be a period at the commencement of each Governor's term of office when these responsibilities will be in excess of his powers, owing to his lack of acquaintance with the country, people and officials. It appears to be a grave defect in the scheme that such a hiatus should be liable regularly to recur. Even when the Governor has attained some knowledge of the province, the burden of the duties imposed on the Governor appears to be excessive, and it is probable that, so far as the expectations of the framers of the Report are based on his ability to direct and control the working of the new experiment, they will be liable to be disappointed. In regard to his relations with his Ministers, it is not easy to offer criticism in the absence of the proposed instrument of instructions. It is assumed that this will not be a confidential document, for, unless its terms are known to the public, there will be no means of apportioning the responsibility for the administration of 'transferred' subjects as between the Governor and his Ministers.

11. In view of all the above considerations, His Excellency the Governor in Council entertains very grave doubts as to the success of the scheme outlined in the Report. The proposals have not been welcomed by any political party among Indians in this Presidency and the apprehension seems to be widely felt that the scheme would in practice prove to be unworkable. Thus the President of the Madras Provincial Congress Committee on the one hand and of the South Indian Liberal Federation on the other both attack the scheme. The division in function is liable to give rise to serious friction. to impair responsibility, and to jeopardize the progress and prosperity of the population, while looked on merely as a political experiment, the limitations and safeguards will prevent its being possible to draw any decided conclusions from the result and will be liable to throw the discredit for failure on the wrong authorities.

12. The next division of the Report is that referring to the Provincial Legislature. Criticism of this subject is considerably restricted by the fact that all details as to constituencies and the franchise are lacking. On this point opinion must await the results of the deliberations of the committee referred to in paragraph 225 of the Report, but subject to this remark, His Excellency the Governor in Council concurs in the opinion that the present system of indirect elections should be abolished. Experience in this Presidency undoubtedly supports the objection taken to it in paragraph 226 of the Report, and whatever else is retained, there seems no sufficient reason to retain the system of election through local bodies. His Excellency in Council is also disposed to favour the second recommendation in this paragraph which proposes to make the franchise as broad as possible, but he cannot disguise the fact that there is a very large body of Indian opinion which would view with great alarm any great extension of the franchise. It should moreover be noted that the experience of an extended franchise which has been in use for many years in French India is anything but favourable. On this subject attention may be invited to the remarkable opinions recorded by responsible French officials which are to be found in a brochure entitled "Les scandales du regimé électoral dans l'Inde Française" written by M. Quaintenne, Conseilleur Général de l'Inde Française, in 1900.

13. The question of the representation of those sections of the population which are unable, from whatever reason, to secure the return of members really representative of their interests is dealt with in paragraphs 227 to 232 of the Report. His Excellency in Council is strongly impressed by the necessity of devising some means of providing for the representation of communities which have in the past been unable to secure any adequate share in the elective portion of the Legislative Council. It is a patent defect in the working of the present system that the representation has been so largely monopolised by a single class. In the present Legislative Council, the non-Brahman Hindu castes, numbering 26 millions, have only one representative returned by territorial election, while the Brahmans, representing 1½ millions, have nine representatives. This question will be no doubt fully considered by the Franchise Committee and the Government trust that the committee will be able to devise some means for ensuring the due representation of the great mass of the community.

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In any case, however, it is certain that no scheme of communal representation for caste Hindus would adequately secure the due representation of the interests of the lowest castes, which in this Presidency number some ten millions of people, and for this reason it will be for a long time necessary, here to reserve a substantial number of seats to be filled by nomination so as to ensure the due representation of these classes. It appears to His Excellency in Council that the necessity of providing adequately for these classes has not been sufficiently present to the minds of the framers of the Report. He can find no clear recognition of the fact that these backward and inarticulate classes must be protected from oppression or exploitation by the higher castes, and he desires to draw particular attention to this aspect of the problem.

14. There is one section of the community in regard to which an exception should be made from the foregoing remarks. This is the Indian Christian community, which in this Presidency includes a population of about 1¼ millions and is rapidly growing. This community represents a minority which is sufficiently homogeneous, literate and advanced to be capable of deriving benefit from a separate electorate. Its case is analogous to that of the Muhammadans and Sikhs, for whom the Report proposes separate electorates, and His Excellency the Governor in Council proposes that, in this Presidency at least, a separate electorate should similarly be allowed to Indian Christians. Whether such a course is desirable in other provinces, His Excellency in Council is not in a position to judge, but he would again point out that uniformity throughout India is not essential. In this Presidency experience has proved that the Indian Christian community, in spite of its high standard of education and intelligence, has no chance whatever of securing the election of a representative in any territorial constituency, and this practical denial of representation is naturally regarded as a grievance. The grant of a separate electorate to this community will curtail to some extent the number of seats which must be reserved for nomination.

15. The Government of Madras concur in the view expressed in paragraph 232 of the Report that separate electorates will be required for the representation of the planting interest, trade, commerce and the great landowners. The mining interest is not in this Presidency of sufficient importance to require special representation, while as regards the University, the Government doubt if a separate representative is necessary.

16. The retention of an official element in the Legislative Council appears to this Government to be beneficial for the reasons stated in paragraph 233, and in view of the proposal to increase largely the elected element and thereby to reduce the proportion of the official vote, the Governor in Council is not convinced that there is any reason of sufficient weight to justify alteration of the existing conventions regarding the speaking and voting of official members.

17. In paragraph 235 of the Report it is proposed that to each department or group of departments placed under a member of council or a minister a standing advisory committee elected by the Legislative Council should be attached. The avowed object of this proposal is to familiarise the members of the council with the processes of administration, but His Excellency the Governor in Council can hardly think that the suggestion is a happy one. If the proposal stood alone and constituted the basis of a much slower scheme of advance in political education,

it might, perhaps, be accepted, in spite of its manifest disadvantages, but in view of the wide scope of the present proposals, this cannot be claimed for it. On the other hand, the creation of the proposed advisory committees, attached to each member of council or minister, would constitute a serious impediment to the transaction of public business and would necessarily be productive of great and vexatious delay. It would have the very undesirable effect of weakening the sense of responsibility of members of council and ministers for the due conduct of the departments committed to their charge. It would further open the door to irresponsible and undesirable currents of opinion working behind the scenes and with none of the advantages of publicity. Nor is the plan of appointing standing committees in any way a necessary means of ascertaining non-official opinion on any question of policy, on new schemes of expenditure or on the working of the department, as the remarks in paragraph 235 of the Report may be taken to suggest. This can be equally well, if not better, achieved by the appointment of committees *ad hoc* selected from those whose opinion is known to be of value in regard to the particular matter in issue. In this Presidency it has been the practice to convene committees of this class, and the Governor in Council freely recognises the great assistance which he has derived from such bodies.

18. The Governor in Council concurs in the conclusion that the post of President of the Legislative Council should be held by the Governor and that for some time to come the Vice-President should be chosen from the official members.

19. With regard to the fundamental question of the division of the functions of Government between "transferred" and "reserved" subjects, I am to express regret that it is not possible to communicate the considered opinion of the Madras Government by the 1st November as desired in paragraph 1 of Mr. Hignell's letter. The Government of India are aware that the Governor in Council deprecated the holding of a meeting of the Madras Legislative Council for the discussion of the illustrative lists given in Appendix II to the joint Report for the reason that inquiries made during the course of the meeting of the Council held in the middle of August showed that unofficial opinion was very evenly divided on the question whether any such discussion should take place. In accordance with the wishes of the Government of India, as recently intimated, it has been decided to convene a special meeting of the Council for this purpose in Madras on the 22nd October and succeeding days. An accurate record of the proceedings of that meeting cannot be brought into existence immediately after its close and when it has been prepared the Governor in Council will require some interval of time in which to consider the views of the Legislative Council and formulate his own opinion on the weighty issues involved.

20. I am now to refer to the question of affirmative legislation which is dealt with in paragraphs 247 to 254 to the Report and to the device which is developed in paragraphs 252 to 254 for passing such legislation as the Governor may consider essential by means of Grand Committees. Whether this plan would work in a Province in which there existed strong and independent interests is a matter on which this Government does not feel called upon to express an opinion, but these conditions do

not exist in Madras, and regarded from the standpoint of the Presidency, His Excellency the Governor in Council has no hesitation in declaring the suggested methods to be unsuitable. Under the proposals in paragraph 252, of the bare majority with the Governor has power to nominate, at least one-third must be non-officials. The defection of one or two members among the non-officials thus nominated will convert the bare majority into a minority, and therefore in all measures upon which feeling runs strongly, every endeavour will be made to win over one or more of the Governor's nominees. It is not unsafe to assume that they will be subjected to every form of pressure exercised through the press, on the platform and otherwise, and it may well be questioned whether it is wise to place unofficial members in such a difficult and invidious position where their *bona fides* would be constantly open to challenge, and still more whether it can safely be assumed that they will be strong enough to support it. The report observes that no great harm will ensue if a legislative project which cannot secure the support of six out of seven non-official members selected by the Governor is deferred, but this remark seems to this Government to ignore the conditions in which the scheme will work. As a means for enabling the Executive Government to secure the passing into law of such legislation as they consider absolutely necessary, it appears to His Excellency the Governor in Council that the plan of Grand Committees as formulated in the report is open to insuperable objection. Instead of this plan he would suggest that, when a Bill regarded by the Government as essential is rejected or is modified in vital particulars by the Legislative Council, the Government should be free to resubmit the Bill, in such form as they may think fit to the Legislative Council, with the intimation that the Government consider its passage into law to be essential, without modification in respect of the whole or particular clauses of the Bill. The Bill would then be reconsidered by the Legislative Council. After such reconsideration it would be open to the Governor, setting aside any amendment considered by him to be unacceptable, to declare it to have passed into law.

21. Passing on to a consideration of the budget procedure as dealt with in paragraphs 255 to 257 of the Report, there appear to His Excellency in Council to be many difficulties involved in the procedure suggested. In the first place I am to draw attention to the difficult and invidious position in which the Governor will be placed by having imposed upon him the whole burden and odium of reinserting in the budget allotments which the Legislative Council has struck out. It seems to this Government to be of doubtful expediency to give the Legislative Council the power of rejecting or modifying allotments relating to reserved subjects if such rejection or modification is really ineffectual and can be set aside by the Governor by a stroke of the pen. A make-believe of this sort tends merely to produce irritation. His Excellency the Governor in Council would also strongly urge that, if that portion of the Government which consists of the Governor and the Members of Council is to be responsible for the working of the reserved departments, it is contrary to principle that the Legislative Council should have the power, whether real or apparent, to alter the budget relating to those subjects. The proposals in the report seem here again to effect a divorce between power and responsibility.

22. As regards the transferred subjects, it appears that the vote of the Legislative Council on the budget relating to these subjects will be final and conclusive, and that neither the Governor nor the minister will be able to alter it. As the minister is not responsible to the Legislative Council, but is merely responsible in a remote and indirect way to his constituents, there is no security that the minister's views will be in accordance with those of the majority in the Council or the majority's views with his; so that it will be possible for the Council to defeat the minister's policy by modifications of the budget allotment and for the minister to frustrate the desire of the majority of the Council by his control of the executive of the departments in his charge. A deadlock will thus result, and if the minister declines to resign, there will be no remedy except by the dissolution of the Council. Even then, if the minister retains his seat and the Governor reappoints him, the deadlock will continue. It does not appear to His Excellency the Governor in Council that an arrangement in which such a result is possible, if not probable, can be regarded as suitable for adoption.

23. It appears from the remarks in paragraph 257 to be the intention of the framers of the report that the responsibility for suggesting fresh taxation should be placed wholly on the ministers. It is not unlikely that, if this were carried out, no fresh taxation would ever be imposed, and therefore the transferred subjects would be starved for want of funds. It does not appear to His Excellency in Council that such an arrangement is workable. It would not be fair that the ministers alone should be called upon to incur the unpopularity inseparable from proposals to increase taxation, and in the opinion of His Excellency the Governor in Council the Provincial Government as a whole should assume full responsibility in this sphere. This is, however, only one illustration of the radical defects in any scheme which seeks to divide the functions of Government between two conjoined bodies. If it is carried out, the tendency will be for the ministers to represent that the necessity for increased taxation rises out of the increased demands for the reserved departments, although the fact may be that it is due to the ministerial mismanagement of the resources at their disposal. Mutual recrimination will arise; the public will be appealed to to judge between the two disputing parties, and very serious injury will be done to the prestige and credit of the Government as a whole.

24. These difficulties inherent in the proposed diarchic system recur with no less force when the report comes to deal with the question of the relations of the services to the Government in paragraph 259. It is not made clear in whom the power of actual appointment to offices in the transferred department is to vest, whether it is to remain, as at present, at the absolute discretion of the Governor or whether he is to be bound in this, as in all other ordinary matters, to follow the advice of his ministers. The Government are clearly of opinion that the present position should be maintained.

25. On a careful review of the general trend of the proposals which have been made in the report, the Government of Madras cannot but ask themselves whether the adoption of changes such as are here proposed, which constitute in effect rather a revolution than a reform in the government of the country, is in the true interests of its progress and happiness; whether it would not be more for the benefit of the great

population under the British Crown in India that development should proceed more on lines which would retain the essential feature of a single unified Government and avoid the entirely new experiment of the division of the Government into two parts between which it may be difficult to secure the co-operation essential to success; and whether the difficulties surrounding this experiment are not greater than any prudent statesman would feel justified in undertaking. There is the possibility of the scheme achieving a success which will greatly promote the welfare of the people of India, but there are undoubtedly also the chances of a great and disastrous failure. His Excellency the Governor in Council cannot conceal his apprehension that the latter exceed the former.

26. In the succeeding paragraphs 260 to 262 proposals are made for future development. These involve the periodical examination of the working of the proposed constitution, first by the Government of India at the end of five years and then by a Parliamentary Commission at the end of ten years. While His Excellency the Governor in Council does not wish to oppose the general conception of an examination of Indian affairs being made from time to time, he would like to ask whether it is really a wise proceeding to attempt to frame a definite time-table of progressive stages. On the one hand, if it is known that revision is to be undertaken after a definite period, opposing interests will concentrate their attention on the preparation of the case for the grant of additional powers or for the withdrawal of existing powers; and scope for organized agitation will be created. On the other hand, if practical experience should indicate the need for change, it should be open to the Government at any time to modify or reconsider the division of subjects between the "transferred" and "reserved" categories.

27. On the subject of Chapter IX, which relates to the Government of India and the India Office, the Governor in Council does not desire to offer any detailed remarks, but he wishes to place on record his unreserved acceptance of the fundamental proposition mentioned in paragraph 276, namely, that the capacity of the Government of India to obtain its will in all essential matters must be unimpaired. This seems to be the most convenient point at which to refer to the questions of the relations of Provincial Governments to the Government of India which are touched on in paragraphs 212 and 213 of the Reports, and I am to express the hope that this slight divergence from the order followed in the Report will be overlooked. In these paragraphs certain proposals are made to give greater freedom from control to Provincial Governments in the spheres both of legislative and administrative business. In the opinion of His Excellency the Governor in Council this change in policy has long been called for, quite apart from and independent of any question of constitutional reforms. As he has previously stated, the desideratum in his opinion is "not merely the relaxation of a rule here or the extension of a limit there, but the achievement of a complete change of view regarding the powers of Provincial Governments." It is necessary to abandon the traditional policy that Provincial Governments are not to be trusted to spend their revenues in their own way and to manage the territories and the peoples within their jurisdiction to the best of their own judgment, but must be hedged round with a network of rules and restrictions to prevent their going astray. Those who have suffered from the heavy yoke imposed by the detailed control

of the Secretary of State and the Government of India have long recognized now how largely that control has been responsible for the slow progress of the country. Initiative is paralyzed by the necessity of having constantly to pull up and apply for sanction and the absence of this paralyzing factor is doubtless the reason why in certain Native States a greater measure of advance has been achieved with less resources and inferior instruments. Even if no immediate and vital change were to be made in the Government of India, His Excellency the Governor in Council would still advocate a wide and far-reaching measure of decentralization, altogether different, in scope and effect from the timid half-measures of the past. If, however, a great extension of popular control in the provinces is to be undertaken, the necessity for the radical reduction of the Government of India and Secretary of State's powers and practice of interference will be unavoidable.

28. In paragraph 4 of Mr. Hignell's letter reference is made to a suggestion conveyed to Local Governments in December last, *viz.*, that detailed local inquiries should be instituted so as to enable them to form some idea of what would be a reasonable franchise and of the resultant strength of electorates and the size and number of suitable constituencies, and it was requested that the necessary materials should be collected as soon as possible in order that they might be placed in the hands of the Committee whose appointment is contemplated in paragraph 225 of the Report. In reply to the original suggestion it was pointed out in paragraph 20 of my letter no. 59, dated the 17th January 1918, that there are already in the Madras Presidency rural and urban electorates constituted for the purpose of electing members of taluk boards and municipal councils and that particulars of the existing franchise and the numerical strength of the electorates have been furnished to the Government of India in Mr. Graham's letters nos. 28-3-Legislative, dated the 9th May 1917, and no. 35-Legislative, dated the 21st May 1917, and it was added that further changes were under contemplation which would have the effect of broadening the franchise and that the whole question would necessarily come under further consideration in connexion with the discussion of pending proposals for the amendment of the law relating to municipal and local bodies. The Governor in Council intimated that his policy in this respect favoured the creation of direct electorates on a franchise as broad as possible, and in view of the obvious objections to the multiplication of electorates he expressed his decided adhesion to the view that the same electorates from which municipal and local bodies derive their powers should be utilized as the basis for the election of Provincial Legislative Assemblies. On these grounds he stated that he did not propose to institute any detailed local inquiries. Since December last further steps have been taken to broaden the franchise and electoral rolls are now under preparation which should disclose the effect of these measures as soon as complete replies have been received to certain references issued to the local bodies concerned. Material is thus in the process of collection and the Governor in Council will spare no pains to complete its compilation and place the result before the Committee which, it is understood, will shortly be appointed to deal with the franchise question. His Excellency will only add the expression of his opinion that, in the words of paragraph 264 of the Report "an electorate sufficiently active and cognisant of affairs to hold

their representatives effectively to account" is the fundamental and indispensable basis of any scheme of democratic Government. The Governor in Council has grave doubt whether it will be possible to create at present such an electorate in this Presidency.

No. 1104-A., dated Fort St. George, the 10th December 1918.

From—The HON'BLE MR. C. G. TODHUNTER, I.C.S., Acting Chief Secretary to the Government of Madras,

To—The Secretary to the Government of India, Home Department.

In continuation of my letter no. 948, dated 19th October 1918, which deals generally with the Report on Indian Constitutional Reforms, I am now directed to address you on the question of the division of functions which is discussed in paragraph 238 thereof.

2. The paragraph in question deals with two divisions of functions, first, that between the Government of India and the local Governments and secondly, the division of the provincial subjects between the ministers and the rest of the Government. I am in this letter to state the views of the Madras Government on the latter of the two questions. The large question of the devolution of functions by the Imperial Government to Provincial Governments will form the subject of a separate communication.

3. In my letter above referred to, His Excellency the Governor in Council has expressed grave doubts as to the possibility of the success of the scheme of dualism outlined in the Report, and has brought to the notice of the Government of India that this part of the proposals has not been welcomed by any political party among Indians in this Presidency, and that the apprehension seems to be widely felt that the scheme will in practice prove to be unworkable. Reasons were given for thinking that the division in function is liable to give rise to serious friction, to impair responsibility, and to jeopardize the progress and prosperity of the population, while if it is looked on merely as a political experiment, the limitations and safeguards imposed will suffice to prevent its being possible to draw any decided conclusions from the result, and will be liable to throw the discredit for failure on the wrong authorities.

4. In this connexion I am to invite attention to Mr. Davidson's letter no. 59, dated 17th January 1918, in which the adoption of a scheme of sub-provincial councils was advocated. His Excellency in Council continues to prefer this arrangement to the one advocated in the Report, as he believes it would enable men of local weight to come forward and make their influence felt, would afford the training ground which is so much needed, would retain the ultimate control of legislation and power of the purse with a united government and would introduce real responsibility at once. He very much doubts if these ends would be achieved under a system which divides the functions of the government between two divergent elements as proposed in the Report.

5. In deference to the opinion of the authors of the Report and the wishes of the Government of India, His Excellency the Governor in Council has made more than one attempt to draw up a scheme for the division of subjects into reserved and transferred but without success.

He has been unable to find any *à priori* grounds for considering that any one subject is more suitable for transfer than any other, and sees strong objection to a scheme which would divide the Government into watertight compartments.

6. His Excellency in Council has not ignored the conditions under which the authors of the Report propose that the scheme should be worked and the considerations which are to determine the subjects to be transferred, but finds these conditions and considerations vague and inadequate. It is prescribed, for instance, that the extent to which responsibility can be transferred should relate to the nature and extent of the electorate which will be available in any particular province. The electorate has yet to be determined and its determination is going to be a matter of great difficulty. In the next place it is laid down as regards the considerations proposed for determining what subjects should be transferred that they should be—(1) the subjects which afford most opportunity for local knowledge and social service, (2) those in which Indians have shown themselves to be keenly interested, (3) those in which mistakes which may occur, though serious, would not be irremediable, (4) those which stand most in need of development, and (5) those which do not vitally affect the masses. While, however, an examination of the second of the lists attached to the Report shows that hardly any of the subjects therein satisfy all these conditions, there seem to be many included in it which offend against one or more of them. There are few things which affect the condition of the masses so vitally as taxation and local self-government : a wrong policy in respect of education or forests might easily have results that were irremediable ; Indians have so far shown a minimum of interest in veterinary science, fisheries, the preservation of wild birds or river conservancy. Nor is His Excellency in Council able to accept the proposed tests as adequate in themselves. Local knowlege may well connote local pressure. The transfer of even so apparently suitable a subject as local self-government would involve a considerable danger of the administration of local affairs being prejudiced by political considerations. Again a keen interest by a member of the educated class, say in secondary education, might result in diversion of funds from primary schools. With the need of development there is generally associated the need of trained administration and it may well be urged that it is more desirable to transfer to the untrained ministry the subjects which are administered by an established staff on settled lines and not those in respect of which the minister will be liable to be swayed by the prejudices of uninformed constituents ; while, if ministers are not to handle matters that vitally affect the masses, they will be debarred from the most important branches of the administration.

7. While the division of subjects as a whole is impracticable, the bifurcation of particular subjects is even more so. Under such an arrangement the possibility of apportioning responsibility vanishes. Administration, which would be sufficiently difficult in subjects which overlap, would be impossible when the two parts of the Government were responsible to separate authorities for parts of the same subject. The control of staff would raise endless difficulties, and neither half of the Government would be able to discharge its responsibilities properly.

8. The position of the minister under the scheme has been commented upon by many critics. While in most quarters his position is looked upon as one of inferiority, there is at the same time cast upon him in respect of his own subjects a responsibility for decision markedly greater than that which will be cast upon his more experienced colleagues, and the casting of this burden upon him has involved the conferring upon the Governor of extraordinary powers and duties which it will, in the opinion of His Excellency the Governor in Council, be impossible to fulfil. These difficulties are exaggerated when the question of taxation is considered. While the members of council will have no power to raise funds for their own subjects, the minister is to bear the burden of the unpopularity of initiating all taxation, whether for transferred or for reserved subjects. At the same time he may be outvoted on the budget that is to be presented by the united government, and may have to bear the burden of an unpopular measure for which he is in no way responsible.

The position of the minister in relation to his constituents will be no less difficult. The average ryot has no conception of the advantages, for instance, of forest conservancy and sees no connexion between scarcity of water and denudation, and pressure will be brought to bear on the minister to throw open reserves and thereby sacrifice permanent interests to immediate advantage. And so in many matters the limit of the minister's power for good will be liable to be that of his constituents' knowledge of the need of advance. His Excellency the Governor in Council desires to lay stress on this point. He is aware of what has been achieved by Indian ministers in Native States. He considers that those achievements are due in no small measure to the security of their tenure, and that, if they had been responsible to a number of ignorant voters, their hands would have been tied and their capacity for performance strictly limited.

9. The Government of Madras have already addressed the Government of India in letter no. 893 Financial, dated 5th November 1918, on the subject of the financial arrangements under the new scheme, and have entered a strong protest against the proposal to base the contribution to the Government of India not on population, nor on area, nor on wealth, nor on the capacity of the provinces, but on the results of a series of provincial contracts which this Government have never accepted as being fair to the people committed to their charge. It has been pointed out in that letter that, if burdened with such a contribution, this Government cannot be responsible for carrying through the large schemes of improvement to which they are committed. I am to add that there can be little doubt that the view taken by this Government is strongly supported in non-official circles. No less than five resolutions of protest have been submitted for discussion by the Legislative Council, but have been disallowed by His Excellency the President on the ground that the matter was under correspondence with the Government of India. This Government have, however, very little doubt that, if any of them had been brought forward, it would have been passed unanimously by the Council.

In this connexion I am to draw attention to the financial proposals contained in paragraph 203 of the Report under which the two great sources of provincial revenue will be Land Revenue, which at present

yields some 600 lakhs, and Excise, which yields some 400 lakhs per annum. It appears to His Excellency in Council that in the initial stages of this projected development there would be grave danger in entrusting either of these great revenue-producing heads to the control of untried members of the Legislative Council, new to all sense of responsibility.

10. I am now to refer to the result of the discussion of the lists of subjects in the Madras Legislative Council at a meeting held on the 22nd and 23rd October 1918. As has already been intimated to the Government of India, the non-official members of the Council, when they were consulted, were unable to agree as to the desirability of a discussion at all. At the above meeting, which was nevertheless held in deference to the wishes of that Government, out of a total of 29 non-official members, eight were absent and another declared himself unable to take part in the debate in the absence of knowledge as to the nature of the electorate and Council of the future. Others declared the discussion premature and desired to place on record that their participation in it should not be taken as implying any approval of the principles of the report, while four members discussing the proposals as hypothetical, expressed themselves as opposed to diarchy in any form. A fifth announced a similar opinion in a letter sent to the newspapers as soon as the meeting was over. A similar opinion is to be inferred from the action of six members who submitted resolutions proposing the transfer either of all the subjects or of all except those expressly reserved by the authors of the Report, *viz.*, those relating to the maintenance of law and order. At the same time the detailed resolutions covered practically every subject on the reserved list.

11. In order, however, to make the discussion as fruitful as possible, His Excellency the President deferred the discussion of these omnibus resolutions and endeavoured to elicit opinions of real value in respect of resolutions favouring transfer of individual items of work.

The first subject discussed was that of Land Revenue. The mover began by declaring himself unable to find satisfactory reasons for withholding any subject from the control of the minister when the limitations imposed by the Report were placed upon this powers. He dissented from the suggestion that matters which vitally affected the well-being of the masses should not be transferred. The seconder referred to the difficulty of discussing questions of transfer without knowing the nature of the electorate. One supporter urged as his chief ground for support the fact that the subject vitally affected the masses. Another admitted the danger of the reduction of the land revenue. A third went the length of pressing for a reduction and added, "What I would suggest is that we should take more from the treasury and less from the taxpayer." The motion was carried by twelve votes against six.

12. The next subject discussed was Industrial development. The mover urged an equal division of subjects and recognized that his proposal would give rise to apprehensions on the part of the European merchants. The resolution was supported on the ground of the unfair treatment given by Government and the Secretary of State to Indian industries in the past. The following extract from the speech of the

Hon'ble Mr. A. S. Krishna Rao will be of interest :—"The more correct solution should have been to have the necessary safeguards and checks in the machinery of the Government of India and to allow provincial autonomy. But because the authors of this Report have, for various reasons stated therein, considered it necessary to divide responsibility and because they have conceded the desirability of some devolution of responsibility to Indian ministers, we have thought it the wiser course to accept it, so far as it goes, hoping that in course of time we will justify the demands for further reforms in that direction."

13. The next question discussed was that of Borrowing on the sole credit of provincial revenues. The following extract from the speech of the Hon'ble Mover is of interest with reference to the question of finance :—"My Lord, I am at one with several of my honourable friends who have preceded me already in feeling grave doubts as to the system of diarchy such as that formulated in these proposals, a system under which two different principles of government are combined, two different sets of authorities are created who look to different authorities for their responsibility—two different systems of finance which give preference to one set, but first of all placing the revenues at the disposal of the Government of India, leaving the ministers to get what they could after the reserved portion of the Government is satisfied. On this financial proposal for working this dual government, I have very grave doubts whether the scheme, as it is, would be workable and whether it does not place the ministers at the mercy of the Governor in Council. I fully believe that this part of the scheme should be reconsidered if reforms are to be a success. The authors of the scheme state that the Government of India should have precedence in regard to their contribution. Then they say that the reserved portion should receive their supplies and there is no limit to that supply ; the Governor in Council may ask for what they like and then the ministers are to develop those departments which require development and are supposed to get the balance of what is available after all the other needs are satisfied. If there is a deficit, the ministers will have to face it and ask for extra taxation. This scheme of running this dual government under this system of finance is, I submit, open to the gravest possible objection. I hope that your Excellency in Council, when these proposals come up for examination, will devise a scheme which will be equitable to both parts of the government and which would not place the ministers at a disadvantage in undertaking a new experiment such as this.

"My Lord, therefore, first of all, before I deal with the question of borrowing, I wish to address Honourable Members about these financial proposals, not only non-official members, but also the members of your Excellency's Government both individually and collectively to improve this portion of the scheme and to devise a scheme which will not bring one portion of the Government into collision with the other and suggest modifications for removing administrative friction that must be caused if the scheme remains as it is. I must say that the collective wisdom of the Government of India and the Secretary of State's Government and the distinguished authors of this Report has not enabled them to evolve a scheme which is not open to all these grave objections."

The following statement indicates the grounds upon which the proposition was moved :—

"Assuming that local self-government is transferred, a minister who wishes to give a loan to a municipality or who wishes to finance a district board railway or who wishes to help a co-operative credit society,—I believe it is also under contemplation to use co-operative societies for loans to agriculturists—the minister wants money, if borrowing is placed in the reserved department, it will be within the competence of the Governor in Council to refuse him facilities to grant loans. Is that a state of things that can be contemplated? That is the essential point which I wish to raise by this resolution. Ministers are responsible for taxation and no taxation can be imposed without their approval. Ministers are responsible for the departments for which loans are required and yet, borrowing on the sole credit of the Government is placed in the reserved list. I think that the position will be intolerable, intolerable for a minister who wants money and who cannot get it. If he wants a loan he has to go to the other part of the Government and ask them to sanction the loan. I submit that the scheme, as it is, is not a sound one. If you make the ministers responsible for taxation, I think the only thing that you can do is to make them the authorities for borrowing, and make them also responsible for it."

The resolution was put and agreed to.

14. The next proposition was that elementary, industrial and technical education should be included among the transferred subjects, while university and secondary education should be retained among the reserved. The Hon'ble the Rev. George Pittendrigh who moved the motion pointed out the serious consequences of false steps in education that compulsory education, though an excellent electioneering cry, was not a popular thing, while secondary education was, and that in a popular assembly there was always a tendency to favour the latter. The Hon'ble Mr. Ramachandra Rao in opposing the resolution used the following expressions :—

"It is bad enough to have two compartments in the Government itself, but it would be worse if the direct authority for education has to serve two masters. I think, if there is one point with reference to the reforms and the way in which the new organisation is to work, it is this : we do not want dual control over the departments and for that one strong reason I would ask that the whole field of education should be placed under the ministers."

The Hon'ble Mr. Yaqub Hasan added the following :—"In any case, there will be a disadvantage, and not an advantage, in the bifurcation of the department. If all the branches of education are under one control, there will be a consistent educational policy and there will be a proportionate expenditure of money on the different branches of education and also the department will be one and policy will be carried out by one department and not by two."

The result of the voting was to recommend the transfer of all education to the control of ministers.

15. The next proposal was that matters affecting the conditions of services of the transferred departments should be included in the list of transferred subjects. The possibility of reduction of expense was one of the principal grounds urged. The main ground, however, was that the ministers could not be responsible unless they had control. This point was put strongly by the Hon'ble Mr. Ramachandra Rao as follows :—

> "The conditions of service and the control of the public services do not seem to have been contemplated by the authors of the Report. It is one of the most important elementary propositions of administration that the ministers who are administering their departments should have full control over the staff appertaining to the departments. Unless that is conceded, the whole of this scheme would stand self-condemned. It has been more than once pointed out by the Decentralization Commission that the services should be controlled by those who are responsible for administering those departments. If ministers are to be held responsible for the departments to be ultimately placed in the transferred list, they must have a free hand with the services employed by them.
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> "Therefore it seems to me, My Lord, that unless this fundamental proposition is conceded, there is no use of having any transferred list.
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> "Whatever may be the departments transferred ultimately, even taking the departments in the illustrative list, for example, the departments of Agriculture, or Industries, or Education, I say that Imperial officers as well as Provincial officers will have to be appointed and the ministers should have such control as the Provincial Government now has with reference to the appointment, conditions of service and general control of the services. Otherwise, the position of the ministers will be quite anomalous.
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> "Unless these essential conditions are also carried out in the Report, and unless these too cautious proposals which are to be found in the Report are modified, I am certain that there will be a deadlock between the two departments of the Government."

It will be observed that under this position, which the Hon'ble Member regarded as essential, the minister would possess powers much in excess of those possessed by a Member of the Executive Council and equivalent to those now entrusted to the Governor of the Province. The resolution was carried, thirteen members voting for it.

16. The next proposition related to Prisons and the administration of the Acts relating to incitements to crime, seditious meetings, press and arms. It fell through for want of a seconder.

17. The next proposition was that the whole of Forests should be

transferred. The following are samples of the arguments by which the resolution was supported :—

"The main difference is that just like the present Government the Executive Councils would attach more importance to the experts' advice than to public opinion. If the ministers control this department, they will have better knowledge of the conditions of the people than the experts and they will be in touch with the people. They will have a true sense of proportion when they have to reserve a portion of the forest or to throw it open to the villagers. That will be an advantage to a greater extent than the corresponding disadvantage."

* * * * * *

"I wish to answer the objections that I have raised. In the first place, I must admit as a fact that valuable forests have been denuded and that by the grossly improper conduct of some villagers. Looking to the causes, what are they ? Luckily in this matter we have the advantage of the Forest Committee's Report. There they point out that the forest administration has not worked smoothly and the main difficulty is that that administration has proved a very bitter pill to the villagers and the villagers who had been accustomed to exercise certain privileges were deprived of those privileges."

* * * * * *

"If the Forest Department is severely worked so as to deprive the people of immemorial rights, the people get into the forests and cut down trees or set fire to them and otherwise cause damage. Therefore, in the interest of the real protection of the forests, what is wanted is to make the administration popular."

The resolution was put and agreed to.

18. Civil Justice was next discussed. The interest shown in litigation and the extent to which the people are interested were the main arguments in favour of transfer. The resolution was lost on grounds which are explained in the following extracts from the speech of the Hon'ble Mr. Venkatapathi Raju :—

"If you say there should be no division, I am in favour of it : but when we agree to division, I do not agree with the position taken by the Hon'ble Mr. Ramachandra Rao that we agree to their proposition but we want this amendment as regards civil justice. . . . .

When we want to give law, justice and order to Government, let us do it ungrudgingly".

19. The transfer of Business Concerns was next considered, and supported by arguments in favour of a protective tariff. The motion was opposed by the Chairman of the Chamber of Commerce and carried by a majority of one.

20. A motion for the transfer of Agriculture was carried without discussion and motions regarding the transfer of Railways and Major Irrigation, Inter-provincial Immigration and Emigration and Stationery, Printing, Stores and Supplies with very little discussion.

21. The non-official members were unanimous in recommending that the power of suspending defaulting local bodies should not be vested in the Executive Council.

22. To sum up the non-official members were generally opposed to dualism as a system. They were specially opposed to the bifurcation of subjects. They recognised that the tendency of the scheme will be to create friction and to impair the efficiency of the Government. More than one of them urged the view that it is impossible to say what subjects a minister will be capable of administering until it is known from what class he is to be chosen, and none of them was able to show that there was any *a priori* reason why one subject should be more suitable for transfer than another. Thus, the result of the debate, while it supported the conclusion of His Excellency the Governor in Council that division of subjects is not a practicable scheme, failed to give him any assistance in framing a list of subjects suitable for transfer on the assumption that dualism is to be forced upon the country.

23. The declared policy underlying the proposed reforms is that of increasing the association of the Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire. It has been shown that the proposed responsibility of the ministers to the electorate will be shadowy, while the want of unity in the executive government will be a serious defect. If the system of sub-provincial councils which this Government have already favoured is out of the question, His Excellency the Governor in Council would prefer to see the existing system of a unified government developed on natural lines by the addition to the Executive Council of one or more persons nominated from among the non-official members of the Legislative Council in order thus to include within the Government the representation of responsible non-official opinion. As at present His Excellency the Governor would distribute the portfolios among the members of his Government at his discretion. All subjects coming before the Executive Council would be discussed by all members of the Government without distinction, and in case of equality of votes His Excellency the Governor would decide. Some such proposal as this would preserve the unity of the Government, while, in extending the responsibilities of its Indian members over the whole field of administration, it would offer to them wider opportunities of service and provide liberally for the increasing association of Indians in the government of the country. His Excellency the Governor would earnestly request that this alternative be examined before the Government of India decide in favour of a scheme to which there are so many obvious and fatal objections.

No. 1145, dated Fort St. George, the 31st December 1918.

From—The Hon'ble Mr. C. G. TODHUNTER, I.C.S., Acting Chief Secretary to the Government of Madras,

To—The Secretary to the Government of India, Home Department.

In continuation of my letter no. 1104-A., dated 10th December 1918, on the subject of the division of provincial subjects between the ministers and the rest of the Government, I am now directed to address

you on the question of the devolution of functions from the Government of India to the Provincial Government.

2. As regards the degree of devolution permissible, the Report on Constitutional Reforms differentiates between those subjects dealt with by ministers in the Provincial Government and those dealt with by members of the Executive Council of the same Government. In the case of the latter it is suggested that devolution to the same extent is not permissible, as the Government will still be partly bureaucratic and as Indian opinion would therefore favour the reservation of a greater degree of control by the Government of India. His Excellency the Governor in Council ventures to doubt the soundness of these views. The idea that it is safer to entrust extended powers to an untried minister nominally responsible to an untried electorate than to the Government which has hitherto carried on the administration might fairly be held to indicate the extent to which the recommendations of the Report have been influenced by theory to the neglect of facts. The argument also overlooks the fact that the Provincial Government is even under present conditions no more bureaucratic than the Government of India and is much more closely acquainted with local needs and aspirations. Under the proposed scheme all acts of the Provincial Government are to be on the same plane whether they proceed from a minister or from the Executive Council, and popular opinion acting through the proposed enlarged councils with their substantial non-official majorities cannot fail to influence all parts of the executive Government to an even larger extent than at present. If, moreover, the proposals in paragraph 257 of the Report are carried out, the preparation of the budget would be the joint work of the entire Government, *i. e.*, of the ministers as well as of the Governor and Council, and there would therefore seem to be no case for imposing on one set of departments or subjects restrictions which are not imposed on the other set. Nor is His Excellency the Governor in Council aware of any evidence in support of the proposition that Indian opinion looks to the Government of India in general to safeguard the country's interests against the bureaucratic tendencies of the Provincial Governments. On the contrary, so far as His Excellency the Governor in Council is aware, responsible Indian opinion in this Presidency has at no time expressed any desire to see the control of the Government of India increased, but would rather prefer to see the constraint laid on the local Government reduced. To proceed on any other assumption would augur ill for the success of any scheme of reform dependent on mutual trust and good feeling between the Provincial Government and the representatives of local public opinion.

3. In paragraph 27 of my letter no. 948 of the 19th October last the need for a complete change of view regarding the position and powers of Provincial Governments was emphazised as being an essential measure of reform apart from any question of the constitution of Provincial Governments. It is not necessary to repeat the arguments there used, but His Excellency the Governor in Council considers that it should be clearly recognized that the scheme of devolution of powers now under discussion is in nowise dependent on the division of functions into "reserved" and "transferred," or on the institution of the diarchic system of government proposed in the Report on Constitutional Reforms.

4. This Report contemplates at once giving the provinces the largest measure of independence, legislative, administrative, and financial, of the Government of India, which is compatible with the due discharge by the latter of its own responsibilities. The first step in the problem is therefore to define and demarcate the sphere in which the Government of India is to be primarily responsible. In all other matters the Provincial Government will for the future be primarily responsible, subject, in certain defined respects, to the general control of the Goveroment of India. For this purpose, His Excellency the Governor in Council would refer to section 79 of the Government of India Act, 1915, which defines the powers of local legislatures. Sub-section (3) of section 79 excludes various matters from the consideration of a provincial legislature. Subject to the qualifications explained below, these excluded subjects may, in the opinion of His Excellency the Governor in Council, will be taken to constitute the sphere, both legislative and administrative, under the direct control of the Government of India.

5. Clause (*a*) of sub-section (3) refer (in addition to the public debt and customs) to taxes or duties for the time being in force and imposed by the authority of the Governor General in Council for the general purposes of the Government of India. It will be necessary to restrict the operation of this clause to those taxes or duties which are to be reserved for imperial purposes under the terms of the financial settlement between the Government of India and the local Governments, and to give the local Governments full powers regarding such forms of taxation as are to be assigned to its charge.

6. In paragraph 13 of the Hon'ble Mr. Davidson's letter no. 131, dated 28th February 1918, His Excellency the Governor in Council accepted certain proposals regarding provincial taxation proposed by the Government of India. A schedule of the powers of taxation that will be within the competence of the local Government under their proposals is appended (Appendix I). Where a tax falls entirely within the provincial schedule, no sanction of the Government of India would be necessary, but the necessary Bill should be forwarded to the Government of India in sufficient time to enable them to satisfy themselves that it is not open to objection as encroaching on imperial taxation.

7. Clause (*e*) of section 79 (3) forbids the local legislature to deal with any law affecting the religion or religious rites or usages of any class of British subjects in India. There have been many occasions in the past in which it has been apparent that this clause unnecessarily restricts the power of the local Governments. In the case of religious endowments, for example, the Government of India has repeatedly objected to the Madras Government's undertaking legislation for the purpose of rendering more efficient the law relating to such endowments in this Presidency and had done so for reasons which were neither connected with nor applicable to this Presidency. Further owing to this restriction, it is extremely difficult for any legislation on any social subject to be introduced into a local legislature until it has first been subjected to an elaborate examination by the Government of India, resulting in great loss of time and frequently in the proposed legislation being finally negatived. As most social observances are in this country based on religion, it is exceedingly easy to maintain of any proposed change that it does in some way affect the religion or religious rites or usages of

some class of British subjects. The consequent failure of the Government to carry through any legislation on these matters has been the cause of no little discontent among the Indian public. His Excellency the Governor in Council would therefore remove this reservation and class the subject as a provincial one.

8. The subjects for which, under the above proposals, the Government of India will be primarily responsible will be these enumerated below:—

(1) Opium.
(2) Salt.
(3) Stamps—General.
(4) Customs.
(5) Income-tax.
(6) Public debt and currency issue.
(7) Mint.
(8) Posts and Telegraphs.
(9) Patents and copyrights.
(10) Foreign relations and Native States.
(11) Military and Naval services.

To these subjects His Excellency the Governor in Council would add—

(12) Railways.
(13) Conditions of service and pension of the Imperial services and
(14) Coast lights.

The provincial legislature would have no power to legislate on any matter affecting any of the above subjects except with the previous sanction of the Governor General in Council. The administrative powers of the local Government in relation to these matters would be those delegated by the Government of India and His Excellency the Governor in Council considers that they might, save to the extent specified below, remain as they now are.

9. The administration of salt, customs and opium will continue to be carried on in this province by the department charged with excise administration. Excise will, in future be wholly provincial and a share of the expenditure will be debited to Imperial. The administration of income-tax and general stamps will be carried out by the ordinary provincial establishments as at present, but the cost of special income-tax establishments will be debitable to Imperial. His Excellency the Governor in Council considers that there should be no special limitation on the powers of the local Government to employ such establishments as they may consider necessary under these heads.

10. His Excellency the Governor in Council considers that the provision and maintenance of coast lights around the shores of India should be a matter of Imperial concern for which the Government of India should be primarily responsible. At present there is need of a uniform policy and system in the matter. Some lights are under the control of the Board of Trade, others are controlled by the Government of India and the rest by the local Governments.

11. Apart from establishments, the administrative powers of the local Governments are in some respects unnecessarily restricted in the administration of these Imperial subjects. A schedule of the delegations His Excellency the Governor in Council considers necessary is appended (Appendix II). They concern chiefly Salt and Railway administration.

12. For all subjects other than those referred to above, His Excellency the Governor in Council considers that the local Government should be primarily responsible and have full powers. As regards the

extent and occasion of the Government of India's control in these matters His Excellency the Governor in Council would accept with some modifications the proposals made by the Government of India in another connexion, and would suggest that the Central Government's power to intervene in provincial subjects should be specifically restricted to the following purposes: —

(*i*) to safeguard the administration of the Government of India's subjects;

(*ii*) to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province;

(*iii*) to safeguard the public services;

(*iv*) to decide questions which affect more than one province;

(*v*) to enforce any standing or special orders of His Majesty's Government conveyed by the Secretary of State; and

(*vi*) in exceptional cases, to secure the interests of good Government where they consider that such interests are seriously endangered.

So far as legislative action by the Government of India is concerned, intervention should be restricted by convention in the manner proposed in paragraph 212 of the Report to the abovenamed grounds. So far as administrative intervention is concerned, section 45 of the Government of India Act may be so amended as to empower the Secretary of State to make rules restricting the exercise of the Central Government's powers of administrative control over Provincial Governments to the same specified grounds. The control of the Government of India would in all cases be exercised, not by requiring its sanction by rule or order in any particular case or class of cases, but by intervention on a scrutiny of the proceedings of the local Government or the annual administration reports and returns, or on the receipt of information specially called for.

13. No special reference has yet been made to the question of financial control. It is, however, in the matter of financial restrictions that the need for devolution is most urgent. Although under the various Provincial settlements, the Provincial Governments are nominally given the control of certain heads of revenue, the fact is that under the restrictions laid down by the Government of India and the Secretary of State the powers of the local Governments in regard to the expenditure of these revenues are so restricted as to deprive them of all real independence. The following are illustrations of the fetters which the rules of the Financial Department at present impose upon local Governments:—

(*a*) No scheme, the cost of which exceeds £3,333 (Rs. 50,000) a year, can be sanctioned by any local Government without the previous sanction of the Government of India and the Secretary of State [rule 10(6) of the Government of India Resolution no. 361-E.A., dated 24th July 1916].

(*b*) No scheme, the cost of which exceeds £1,666 (Rs. 25,000) a year, can be sanctioned by any local Government without first reporting the matter to the Government of India and waiting three months to see whether the Government of India intends to veto the scheme [rule 10(6) of the Government of India Resolution no. 361-E.A., dated 24th July 1916].

(c) No local Government can create an appointment the pay of which exceeds £640 (Rs. 9,600) a year or make any addition to the pay of any appointment already in existence if it will have the effect of raising the pay beyond £640 (Rs. 9,600) a year without the sanction of the Government of India [rule 10(2) of the Government of India Resolution no. 361-E.A., dated the 24th July 1916].

(d) The local Government cannot create any appointment whatever, irrespective of pay which would ordinarily be held by a gazetted civil officer recruited in England or by an officer of an Imperial service, or make any addition, however small, to the remuneration of such an officer without the sanction of the Government of India or Secretary of State [rule 10(1) of the Government of India Resolution no. 361-E.A., dated 24th July 1916].

(e) The local Government cannot abolish any such appointment or reduce its emoluments without a similar sanction [rule 10(3) of the Government of India Resolution no. 361-E.A., dated 24th July 1916].

(f) A local Government cannot grant tentage allowance in any case and cannot sanction travelling allowances in excess of fixed rates, or alter the classification of officers for purposes of travelling allowance, or grant any general concession, however small, in regard to travelling allowance, or sanction passage money in any case (articles 1002, 1063, etc., Civil Service Regulations).

(g) A local Government cannot depute an officer outside India, even to Ceylon or the Straits Settlements, without previous sanction of the Government of India, and any deputation to Europe requires sanction of the Secretary of State (article 84-A, Civil Service Regulations).

(h) A local Government has no power to sanction house-rent to any officer whose pay exceeds £400 a year or to grant any honorarium in excess of £33-6-8 (Government of India Resolution no. 358-E.A., dated 31st August 1912).

(i) A local Government cannot sanction the re-employment of pensioners belonging to Imperial Services or employ any European in any appointment carrying pay of £160 per annum and upwards (article 520, Civil Service Regulations, and article 773, Civil Account Code).

(j) A local Government cannot declare what offices shall be regarded as heads of departments for purposes of the Civil Service Regulations (Government of India Resolution no. 352-E.A., dated 25th July 1917).

14. It is clear that these rules conflict with the general principle that the Central Government should confine itself to laying down a general policy and should not interfere in matters of detail (paragraph 213, the Reforms Report). In the second place, these rules are objectionable in that they place such difficulties in the way of any scheme of reform which may be put forward by a local Government as to render it almost impossible to carry out. So complicated are the checks thus imposed that a member of a Provincial Government in charge of a particular

department who wishes to see carried through any large scheme of reorganization is liable to find that his own tenure of office has expired before, after collecting the necessary data, the sanction of the higher authority has been obtained for its introduction. In the third place, these restrictions are the more unreasonable in that, while they prevent the local Government from expending quite small sums in creating new appointments, increases of pay and the like, the Provincial Government nevertheless possesses almost unrestricted powers in other directions. Thus, in the matter of remission of revenue, there is no restriction on the powers of the local Government so that in a bad year it may easily happen that remissions to the amount of £333,333 (Rs. 50 lakhs) may have to be granted and can be granted without reference to the Government of India. Such a remission involves the loss of a sum of money which at 5 per cent. would produce a revenue of £16,666 (Rs. 2½ lakhs) per annum and this revenue is foregone in perpetuity whereas the maximum sum which a local Government can incur in the shape of a scheme of reorganization of establishments is limited to £1,666 (Rs. 25,000) a year although in that case the expenditure is not necessarily perpetual and can be brought to a close at any time. Again, under paragraph 1935 of the Public Works Code, a Provincial Government is competent to sanction expenditure on a single building or project up to £83,333 (Rs. 12½ lakhs) and if half a dozen such buildings are undertaken the total expenditure will amount to £500,000 (Rs. 75 lakhs) representing an income at 5 per cent. of £25,000 (Rs. 3,75,000). Thus a local Government is empowered to expend very large sums on unremunerative purposes and to remit very large sums of revenue, yet is precluded from paying £1,000 (Rs. 15,000) a year to an officer engaged on important work or from engaging a specialist from outside India to supervise new and promising developments. There can be little doubt that part of the prevailing discontent is due to the fact that Provincial Governments have been prevented by the rules imposed by the Secretary of State and the Government of India from effectively carrying out schemes which they themselves recognized to be necessary. It has repeatedly been found in debates in the Legislative Council that though the Local Government recognized the expediency of certain steps which were pressed upon them by un-official opinion, they were unable to carry them out owing to the sanction of the Secretary of State or the Government of India being deferred or refused. It is scarcely a matter for suprise that when un-official opinion found the responsible local authorities thus powerless to promote the progress of the Presidency, they drew the conclusion that something was entirely wrong with the present constitution.

15. As a contrast to the position which obtains in British India, attention may be drawn to the position of a Native State. There, the Diwan, so long as he retains the support of the Ruling Chief, possesses an entirely free hand and can sanction any expenditure on any object which he thinks necessary subject only to the financial abilities of the State. If he decides that, in the interests of the administration, the salaries of the whole or of any branch of the administration need revision, he can carry out such revision without reference to any authority other than the Ruling Chief. If he wishes to secure the services of a European or American expert, he can offer him any fee or salary

necessary. If he desires to send one or more of his own officers to Europe, the United States or Japan to study any problem, he can despatch them at once upon whatever terms he decides to be reasonable. If he wishes to attract a particular officer from the employment of the British Government, he can offer him a salary well above the level obtaining in British India. If he decides on the execution of a particular project, he can secure whatever expert advice is necessary with the minimum expenditure of time and has not got to submit his proposals for the prolonged scrutiny of a far-away board of control.

16. In the Hon'ble Mr. Davidson's letter no. 131, dated 28th February 1918, and my letter no 893, dated 5th November 1918, this Government, subject to a strong protest against the amount of the contribution proposed to be appropriated from the revenues of this province, accepted the proposed financial settlement between Imperial and Provincial whereby divided heads are entirely eliminated. Under this scheme there appears to be no longer any financial reason for the existing restrictions on the powers of the Provincial Governments to spend the Provincial revenues of the Presidency as they consider best in the interests of the country and the people committed to their charge, subject only to the general legislative and administrative control as defined above of the Central Government. His Excellency the Governor in Council accordingly advocates the entire abrogation of all restrictive rules of the nature set out in paragraph 12 above. Should it be thought that the ultimate responsibility of the Government of India precludes the entire abrogation of all such restrictions and that there must be some arbitrary arithmetical limits, His Excellency the Governor in Council would propose that the financial powers of the Local Government under the appropriate rules quoted in paragraph 12 above and similar rules be multiplied by ten, thus enabling schemes costing less than £30,000 a year to be carried out without reference to the Secretary of State and those costing less than £15,000 a year to be carried out without reference to the Government of India. The local Government should be allowed to employ experts on fees not exceeding £5,000 without sanction and should be empowered to depute their own officers outside India on any pay not exceeding their full Indian pay for a period not exceeding twelve months. The restrictions placed on travelling allowance, tentage allowance, house-rent, re-employment of pensioners, etc., should be swept away. If a Provincial Government which is entrusted with the management of the affairs of the Presidency cannot be relied upon to exercise reasonable discretion in such matters, it is unfit for its position. Moreover, if the powers thus proposed to be conferred upon it are abused, responsibility for abuse should be enforced instead of maintaining a multiplicity of preventive checks which impede all action and prevent all progress.

17. There remains the subject of Provincial borrowing. On this question, I am to say that His Excellency the Governor in Council remains of the opinion expressed in paragraph 26 of the Hon'ble Mr. Davidson's letter no. 59, dated 17th January 1918. His Excellency the Governor in Council is strongly in favour of Provincial Governments being given the power of raising loans for their own purposes in the open market. That such a power is urgently called for has been abundantly proved in the past by the history of railway enterprise in this

Presidency which has been seriously retarded and hampered by the control exercised by the Government of India. The small share of the loanable capital available in the London money market which has been secured by India as compared with the British colonies is notorious. In the last two years before the war, India and Ceylon, with vast undeveloped resources and an enormous population, succeeded in raising a total sum of £9,974,000, while the Dominion of Canada, with a comparatively insignificant population, raised no less than £89,558,000, or nine times as much. If it is necessary for the security of exchange to insert safeguards against inopportune or excessive borrowing, they may be provided, but in the general interests of provincial progress the Government of Madras hope that these safeguards will be as elastic as possible.

18. In order that the effect of the devolution proposals here made in regard to Provincial subjects may be the better perceived, a schedule of the principal changes that will be involved by the adoption of these proposals is appended (Appendix III). The schedule is intended to be illustrative and explanatory and is not put forward as exhaustive.

APPENDIX I (*vide* paragraph 6).

PROVINCIAL TAXATION.

The Provincial Government shall have unrestricted power in regard to the levy of all taxes connected with the heads of revenue now entirely Provincial or proposed to be made entirely Provincial and in regard to all taxes and duties the levy of which is permitted in any of the Acts relating to local self-government in the Presidency.

2. It shall also have power to levy a surcharge on income-tax at a rate not exceeding 50 per cent. of the Imperial tax.

3. The Provincial Government shall also have power to impose or sanction the imposition of taxes of the following nature :—

(*i*) Succession duties.

(*ii*) Taxation of land increment values.

(*iii*) Tax on pilgrims.

(*iv*) A terminal tax to be collected by railway administrations as a surcharge on fare.

(*v*) Levy of octroi duties on selected articles, for the benefit of the revenues of local bodies, to be collected where necessary by the railway administrations concerned as a terminal tax on imports and exports by rail

(*vi*) Tax on advertisements.

(*vii*) Tax on places of amusement

APPENDIX II (*vide* paragraph 11).

—	Subject.	Control, etc., exercised by the Government of India.	Recommendation.	REMARKS.
Salt .	The reduction and remission of duty imposed under section 7 (*a*) of the Salt Act, 1882.	The sanction of the Government of India is required.	The sanction may be dispensed with.	
	The remission of duty in case of salt exported to ports in British India under the free shipment system.	Ditto.	Ditto.	
	Remission of 2 per cent. duty under the fixed wastage allowance system.	Ditto.	Ditto.	
	Framing of rules for the duty-free issue of salt for use in manufacture.	Ditto.	Ditto.	
	Permission to incur expenditure from Imperial funds on roads connecting salt factories with main lines of communication.	The rule of the Government of India that money may not be spent on roads outside the 'factory' or 'taluka' limits makes the sanction of that Government necessary in the special circumstances of this Presidency to practically all expenditure of this description.	The local Government should have discretion to incur expenditure on such roads when they are satisfied that these are required for development of the salt traffic.	
	Opening up a new salt market outside India.	Special sanction of the Government of India has to be obtained before any shipment can be made.	The sanction may be dispensed and the power of opening a new market may be delegated to the local Government. A ship available for transport of salt may leave the harbour before the sanction of the Government of India is obtained.	
Opium .	Making rules for the manufacture, sale, etc., of opium.	The sanction of the Government of India is required.	.. ...	The Government of India have agreed to substitute control for sanction but necessary legislation is delayed.

—	Subject.	Control, etc., exercised by the Government of India.	Recommendation.	REMARKS.
Income-tax.	Declaring a foreign association to be a 'company' for the purposes of the Income-tax Act.	The sanction of the Government of India is required.	The sanction may be dispensed with.	
Stamps.	Determination of what offices shall be deemed to be public offices.	The determination is to be made by the Government of India.	The matter may be left to the local Government.	
Customs	(1) Refund to the Travancore Darbar of duty paid at British Indian ports on account of goods intended for the Darbar which could not be landed at the Travancore ports either on account of stress of weather or because there were no vessels calling.	The Government of India's orders are necessary . .	It would save time and trouble if the Government of India would give the local Government a general power to deal finally with cases under these heads.	
	(2) Exemption of baggage and merchandise passing out of India through British territory from French territory owing to absence of vessels calling at the ports in the French colonies.	Ditto	Ditto	
Railways	......	The local Government should be given the following powers which were delegated to it under section 144 of the Act (IX of 1890) but were withdrawn when the Railway Board was constituted:— (*i*) All the powers and functions of the Governor General in Council under sections 7*, 9† and 11‡ of the Act subject to the proviso that the exercise and discharge of such powers and functions will not entail any expenditure in excess of the general powers of sanction of the local Government.	......	

* *Section 7.*—Execution of necessary works by Railway Administrations.
† *Section 9.*—Temporary entry upon land for repairing and preventing accident.
‡ *Section 11.*—Works for the accommodation of the owners and occupiers of lands adjoining a railway.

—	Subject.	Control, etc., exercised by the Government of India.	Recommendation.	REMARKS.
Rail-ways—*contd.*	......	(*ii*) All the powers of the Governor General in Council under section 48*, only in cases where the rail-ways concerned are under the control of one and the same Government. (*iii*) All the powers and functions of the Governor General in Council under sections 5†, 51‡ (*a*) to (*e*), 54§ and 55‖.	......	

* *Section 48.*—Disposal of differences between railways regarding conduct of joint traffic.
† *Section 5.*—Powers of Inspectors.
‡ *Section 51.*—Establishment of ferries and roadways for accommodation of traffic.
§ *Section 54.*—Imposing conditions for working traffic.
‖ *Section 55.*—Lien for rates, terminal and other charges.

APPENDIX III (*vide* paragraph 18).

I. *List of legislative provisions which will require to be repealed or modified with reference to the proposals made in the letter.*

	Subject.	Control exercised by the Government of India.
Maintenance of law and order—		
(1) Administration of Criminal Justice—		
(*a*) Constitution of Courts.	Appointment of Assistant Sessions Judges from the Provincial Judicial Service.	At present the local Government can appoint only four persons from the Provincial Judicial Service. The appointment is regulated by the rules made by the Government of India under section 99 of the Government of India Act, 1915.
(*b*) Administration	Rules for the payment of expenses of witnesses and complainants.	The rules require the sanction of the Government of India.
(2) Indian Prisons Act.	Power to make rules	In certain cases the power to make rules is subject to previous sanction of the Governor General.
Indian Factories Act.	Application of the Act to factories. Appointment of additional Inspectors. Exemption from provisions as to weekly holidays. Exemption from limitation of hours of work in textile factories. Making rules under the Act. Declaring parts of factories as separate factories.	These powers are exercised by the local Government subject to the control of the Government of India.
Indian Petroleum Act.	Declaring 'imported' or 'transported' petroleum to be 'transported' or 'imported,' respectively.	The sanction of the Government of India is required.
The Poisons Act	Regulation of possession and sale of white arsenic in certain areas.	The previous sanction of the Government of India is required.
	Regulation of possession and sale of poisons. Regulation of possession and sale of white arsenic. Making rules under the Act.	These powers are to be exercised by the local Government subject to the control of the Government of India.

	Subject.	Control exercised by the Government of India.
The Indian Explosives Act.	Making rules as to licensing of manufacture, possession, use, sale, transport and importation of explosives Making rules conferring powers of inspection, search, seizure, detention and removal of explosives.	The previous sanction of the Government of India is necessary.
The Indian Registration Act.	Exclusion of districts or tracts of country from the operation of the Act.	The previous sanction of the Government of India is necessary.
The Transfer of Property Act	Exemption of territories from the provisions of sections 54 (2) and (3), 59, 107 and 123. Directing certain leases of immovable property to be made by unregistered instrument or by oral agreement without delivery of possession. Application of provisions of Chapter V of the Act to agricultural leases.	The previous sanction of the Government of India is necessary.
Indian Life Assurance Companies Act.	.. .	All powers under these Act are reserved to the Government of India.
Societies Registration Act.	......	
The European Vagrancy Act.	Provision of Government work-houses for vagrants.	The sanction of the Government of India is necessary.
Land Revenue Administration	Assignment of land for industrial and similar purposes.	The statutory rules of the Government of India do not allow the local Government to make a concession, grant, or lease of land for industrial and similar purposes when (1) an annual liability on the revenues of India is imposed in excess of Rs. 5,000 or (2) a non-recurring charge or liability to damages is imposed in excess of Rs. 1,00,000 or (3) the estimated value of the property or rights ceded exceeds Rs 1,00,000. In (1) the local Government may grant a lease for a term of five years or a lease for a longer period which contains an unconditional power of revocation; in (2) and (3) it must obtain the express sanction of the Government of India. But in cases of grants or leases where the estimated value does not exceed Rs. 1,00,000 and the liability or charge imposed on the revenues does not exceed Rs. 1,00,000 if non-recurrent or Rs. 5,000 if annual, the local Government's powers are not restricted as to the term of years for which the grant or lease may be made.

	Subject.	Control exercised by the Government of India.
Court of Wards	Publication of notifications regarding the transfer to Collectors of the execution of decrees passed by civil courts and the rescission of such notifications.	The sanction of the Government of India is necessary.
Industries	Appointments of Industrial Experts.	The local Government must address the Secretary of State through the Government of India whenever an officer is to be recruited from Europe.
Industries: Mines and Minerals.	Appointment of Inspectors of Mines.	The appointment is made by the local Government subject to the previous sanction of the Government of India.
	Extent of control to be exercised by the Chief Inspector over Inspectors of Mines.	To be prescribed by the Government of India.
	Rules framed by the local Government.	The sanction of the Government of India is required.
Civil Justice	Exemption of agricultural produce from liability to attachment.	The local Government's powers are limited by section 61 of the Civil Procedure Code.
	Making of rules as to sales of land in execution of decrees.	The local Government's powers are limited by section 67 of the Civil Procedure Code.
	Rules regulating the transfer to Collectors of the execution of certain decrees.	The local Government's powers are limited by section 68 of the Civil Procedure Code.
	Appointment of temporary additional Judges of the High Court.	The appointment is made by the Government of India
Local Self-Government.	Loans required by local boards from Government.	The sanction* of the Government of India should be obtained if the following conditions are not fulfilled :— (*a*) The term of the loan should not exceed thirty years. (*b*) Funds must be available from the grants at the disposal of the local Government. (*c*) The rate of interest must not be less than 6 per cent. per annum.

* But see paragraph 17 of the letter.

	Subject.	Control exercised by the Government of India.
Local Self Government—*contd.*	Loans raised in the open market.	The sanction of the Government of India is necessary if the term of the loan exceeds thirty years.
	Construction and working of tramways in local fund areas.	The previous sanction of the Government of India has to be obtained for making an order authorising the construction of a tramway within the areas under the control of a local board.
	Taxation of railway buildings.	The sanction of the Government of India is now required to the taxation of railway properties in each case.
Miscellaneous .	Alteration in the limits of scheduled districts and extension of Acts to them.	The sanction of the Government of India is required.

2. *List of executive rules or orders which will require to be abrogated with reference to the proposals made in the letter.*

Administration of Criminal Justice.	Conferring appellate powers under section 407 of the Criminal Procedure Code on first class magistrates of less than one year's standing.	The Government of India have ruled that the power should not be conferred on magistrates of less than one year's standing.
Police . . .	Alterations in the schemes originally sanctioned by the Government of India as a result of the recommendations of the Police Commission.	In the case relating to the introduction of the scheme for the appointment of "Naiks" in the Coimbatore district, the Accountant-General stated that, as the scheme involved certain changes in the original orders of the Government of India on the recommendations of the Police Commission, the sanction of the latter was necessary. The Government of India have been addressed in regard to this general question and that Government have promised to communicate their orders in due course.
Indian Prisons Act .	Appointment of the Inspector-General of Prisons.	Appointments to the post of Inspector-General of Prisons are made by the local Government, but they are required to apply to the Government of India for an officer if they have no officer in the local jail department suitable for the post. The Government of India proposed to reserve to themselves the power to appoint Inspector-General of Prisons, but the Madras Government strongly protested. The Government of India have since decided to leave existing practice undisturbed until a decision is reached in connexion with the Public Services Commission's report.

	Subject.	Control exercised by the Government of India.
	Confirmation of Indian Medical Service officers in the Madras Jail Department.	The Madras Government took exception in 1910 to the interference by the Government of India in recent years in this matter. The Government of India have this question under consideration in connexion with the recommendations of the Public Services Commission.
The Indian Companies Act.	Certificates to auditors of Companies' accounts.	The Government of India have under consideration the question of the qualifications for certified auditor.
Land Revenue Administration.	Redemption of land revenue.	The Government of India have ordered that no redemption by private persons of assessment due on small plots of land required for dwelling houses, factories, gardens, plantations and other similar purposes should be permitted without their previous sanction.
	Alienation of land revenue.	The local Government are authorized to exempt lands which yield no return to private individuals or local bodies and are devoted to public purposes so long as they are utilized for such public purposes and are also empowered to delegate these powers to subordinate authorities.
	Assignment of land and land revenue to non-officials and civil officers.	The local Government are required to forward to the Accountant-General a return of sanctions accorded by them.
	Kistbandi.	The Government of India are to be consulted when an alteration of *kistbandi* will cause financial inconvenience.
Agricultural and Veterinary departments.	Exemption of officers of these departments from passing the prescribed vernacular tests.	The permission of the Government of India is necessary.
	Powers to confirm an officer of the Veterinary Department or to grant leave to such an officer for more than six months even though no substitute is required.	The Government of India have reserved the power to themselves.
Forests . . .	Disafforestation of reserves	The Government of India's orders are necessary for the disafforestation o areas of more than one square mile.
	Construction of official residences.	The principles dealing with the question of expenditure on official residences for Government servants contained in paragraphs 914—19 of the Public Works Department Code, Volume I, restrict the powers of the local Government.

	Subject.	Control exercised by the Government of India.
Public Works	Engineering establishment	The strength of this establishment is fixed by the Government of India, with the approval of the Secretary of State, and the local Government have no power to alter it.
	Provincial service	The local Government can make only— (a) one appointment annually from the Engineer class of the College of Engineering, Madras, and (b) one appointment from the upper subordinate establishment in alternate years.
	Writing off a portion of the capital cost of a building when the book value is considered to be greatly in excess of its real value.	The local Government have no powers in this respect, and the Government of India's orders are necessary.
	Remission of rent in the case of quarters occupied by Government servants drawing salaries exceeding Rs. 500.	Ditto ditto.
	Letting of Government buildings to private parties at less than the rates prevailing in the locality.	Ditto ditto.
	Reappropriation of funds under '45—Imperial—Civil' from class A Works.	The sanction of the Government of India is necessary.
Education	Appointment of persons not in Government service to temporary vacancies in the Indian Educational Service.	The local Government have power to fill temporary vacancies in any manner they think fit only up to a period of six months, where as the Government of India can fill such vacancies up to a period of two years.
	Remitting the refund of passage money in the case of an officer of the Indian Educational Service who resigns his appointment.	The sanction of the Government of India is necessary.
	Deputation of officers of the Indian Educational Service.	Application from officers of the Indian Educational Service for the grant of facilities to study educational methods abroad have to be submitted to the Government of India.
	Rules for the encouragement of the study of Oriental language among officers of the Indian Educational Service.	The rules are at present framed by the Government of India in consultation with local Governments.

	Subject.	Control exercised by the Government of
	Expenditure on original works connected with cemeteries attached to Government churches.	The sanction of the Government of India is required for works costing more than Rs. 1,500 at one time.
	Establishment for cemeteries attached to Government churches.	The Government of India's sanction is necessary for any increase by more than one coolie in the scale of establishments laid down by the Government of India (Resolution no. 6-370-382, Ecclesiastical, dated 9th November 1876).
Ecclesiastical matters	Sanctioning increase of furniture for church gates of Imperial cemeteries.	Any increase in the scale of furniture laid down for these gates and any general variation of rates require the sanction of the Government of India.
	Increase in the scale of fees laid down for a general variation of the rates and the utilization of fees for monuments in churches on other than charitable objects.	The approval of the Government of India is necessary.
	Electric installation in churches.	The prior sanction of the Government of India is necessary.
Civil Justice . .	Extension of service of a High Court Judge beyond the age of sixty years.	The extension requires the sanction of the Government of India.
	Removal of local fund balances from the Government treasury for investment of deposit elsewhere.	The previous sanction of the Government of India is required.
Local Self Government.	Loans from the railway cess collections of one local board to another for railway construction.	In the present state of the money market each case is required to be submitted to the Government of India for sanction.
	The appointment of an officer for the headship of the Administrative Department (Medical).	The Government of India forward to this Government a list of officers qualified for the appointment and invite them to select an officer from that list, but the appointment rests with the Government of India.
Medical . .	Selection of officers of the Indian Medical Service for civil employ and their subsequent confirmation in the civil department.	Officers forming the leave reserve who act in leave vacancies are only temporarily placed at the local Government's disposal. Whenever a permanent vacancy occurs application has to be made to the Government of India for the services of the senior among the officiating officers to be permanently transferred to the local Government and for the service of another officer to act.

	Subject.	Control exercised by the Government of India.
Medical	Reversion of an Indian Medical Service officer in civil employ to the Military Department.	The sanction of the Government of India is required.
	Appointment to the post of Sanitary Commissioner.	An officer of less than fifteen years service may not be appointed to the post of Sanitary Commissioner without the sanction of the Government of India.
	Recruitment, training, etc.. of medical subordinates.	The following restrictions are in force :— (*a*) A form of bond to be executed by Civil Sub-Assistant Surgeons is prescribed. (*b*) No candidate is eligible for appointment as Assistant Surgeon unless he holds certain prescribed qualifications. (*c*) A system of septennial examinations of Civil Assistant Surgeons for promotion is insisted upon.
Miscellaneous	Direct correspondence with the Secretary of State.	The local Government is enjoined not to address the Secretary of State direct 'on any subject of real importance.'
	General or individual relaxation of Civil Service Regulations except in cases where the power has been expressly given in the Regulations.	The relaxation requires the sanction of the Government of India. But local Government can give in individual cases— (1) an officiating officer higher salary than Rs. 250 per mensem, but not exceeding the pay of the officer for whom he acts. (2) an officer travelling allowance not exceeding Rs. 1,000 in any case.
	Addition to the list of officers who should be treated as heads of departments.	The Government of India alone can make additions to the list in Appendix I-A to the Civil Service Regulations.
	Notification of the revenues of a body as a local fund.	The Government of India alone can do this.
	Permitting the charge of an office being made over at a place other than head-quarters.	The local Government should record the reasons which should be of a public nature.
	Authorizing any officer of a local Government to proceed on duty to any part of British India whether within or beyond its own jurisdiction or to any Native State or Foreign Settlement in India.	This can be done subject to the condition that pay and allowances of the officer deputed are chargeable wholly or partially to Provincial revenues or that the officer belongs to a department or establishment which, though paid from Imperial revenues, is under the administrative control of the local Government.

	Subject.	Control exercised by the Government of India.
Financial	Overstayal of leave.	The local Government may exempt an officer from loss of appointment for overstayal of leave but not from the loss of allowances for the period overstayed. The grant of allowances for the period of overstayal requires the orders of the Government of India.
Financial	Allowing temporary service to count for pension.	The local Government can allow temporary service to count for pension only if the pension does not exceed Rs. 50 a month.
Financial	Re-employment of pensioners.	The local Government have no power to reappoint a pensioner who belonged to an Imperial service or Imperial branch of any service or was a statutory civilian or other officer who before retirement held a post usually held by Imperial service officers.
Financial	Pension or gratuity in extraordinary cases.	The powers of local Government are limited to— (1) pension of Rs. 10 a month, and (2) gratuity not exceeding six months' pay or Rs. 600 whichever is greater.
Financial	Travelling allowance to non-officials.	The local Government cannot give daily allowance of more than Rs. 5 to any non-official summoned to attend a conference or committee.
Financial	Grant of free passages to or from England.	The local Government have no power in the matter.
Financial	Advance for house-building or purchase of houses.	The advance is limited to twelve months' salary.
Financial	Purchase of motor-car or motor-cycle.	The local Government have no power to sanction expenditure of public money for the purchase of a motor-car or motor-cycle for the use of an official.
Financial	House-rent allowances and grant of rent-free quarters.	The power of the local Government is limited to the case of officers whose pay does not exceed Rs. 500 per mensem if chargeable wholly or partly to Provincial revenues and Rs. 100 if charged wholly to Imperial revenues.
Financial	Increased rates of travelling allowance to inferior servants for journeys to or from Ootacamund.	The sanction of the Government of India is necessary.
Financial	Creation of temporary appointments or deputation of officers when the remuneration exceeds Rs. 2,500 a month or when the remuneration, though not exceeding Rs. 2,500 a month, exceeds Rs. 800 a month and the temporary appointment or deputation is expected to last or does last for more than two years.	The sanction of the Government of India is necessary.

Subject.	Control exercised by the Government of India.
Creation of temporary appointments for officers belonging to Imperial services or deputation of such officers on special duty for the discharge of work lying outside the ordinary course of administration for more than six months.	The sanction of the Government of India is necessary.
Temporary appointments and deputations in India if the pay and allowances exceed Rs. 250.	The Government of India's orders are necessary.
Abolition or reduction of the pay and allowances of permanent appointments, the pay and allowances of which exceed Rs. 500 a month excluding those which are ordinarily filled by gazetted civil officers recruited in England or by Imperial Service officers.	The orders of the Government of India are necessary.
Cash grant to a charitable, medical or religious institution which exceeds Rs. 10,000 a year if recurring or Rs. 50,000 a year if non-recurring and any grant to a charitable or religious institution outside India.	The sanction of the Government of India is required.

No. 11-A., dated Fort St. George, the 13th January 1919.

From—The Hon'ble Mr. C. G. Todhunter, I.C.S., Acting Chief Secretary to the Government of Madras, Public Department,

To—The Secretary to the Government of India, Home Department.

With reference to the telegraphic instructions received from the Government of India I am directed to forward a memorandum on the subject of the division of subjects into reserved and transferred. Copy of the memorandum is being communicated to the Committee on the Division of Subjects as the Committee has arrived in Madras.

MEMORANDUM.

The views of the Madras Government on the subject of the division of Provincial subjects between ministers and the rest of the Government as proposed in the Report on Indian Constitutional Reforms have been set forth in the Hon'ble Mr. Todhunter's letters no. 948, dated 19th October 1918, and no. 1104-A., dated 10th December 1918. As was intimated in those letters the Governor in Council believes that the scheme of dualism outlined in the report is not only unsound in principle but will in practice prove to be unworkable. He decided therefore not to submit any scheme for the division of Provincial subjects into two parts. Such a scheme could appropriately be framed only by those who believed diarchy to be both practicable and desirable. As, however, the Government of India have now instructed this Government to prepare such a list and have at the same time conveyed an assurance that the views of the Madras Government, as stated in the letters quoted above, will be placed on the official record of the proceedings of the Reforms Committee dealing with the matter, the subjoined list of transferred subjects is herewith transmitted to that Committee. In transmitting this list to the Committee, His Excellency the Governor in Council requests that, should the Committee desire to include it in any of their published proceedings or reports, the list may be accompanied by the statement that it was framed by this Government in compliance with instructions from the Government of India issued after this Government had expressed their unwillingness to propose any such list.

His Excellency the Governor in Council desires to make it clear that the fact of his framing this list in deference to the wishes of the Government of India must not be taken to indicate that he has in any way withdrawn or receded from the objections he has taken to the whole scheme of diarchy nor has anything emerged in the course of framing this list which has lessened the objections of the Madras Government to that scheme.

List of transferred subjects (departments).

Subject.	Reservations necessary if subject is transferred. (These reservations are not exhaustive.)
1. Local Self-Government . .	The following powers should be reserved to the collective Governments :— (1) Power to suspend defaulting local bodies. (2) The control of the borrowing powers of local bodies.

Subject.	Reservations necessary if subject is transferred. (These reservations are not exhaustive.)
2. Department of Co-operative Credit	......
3. Public Works Department other than Irrigation.	(1) The programme of works for execution should be subject to the control of the collective Government. (2) Works costing over 2½ lakhs of rupees should require the administrative approval of the collective Government.
4. Charitable endowments (as apart from religious endowments).	......
5. Department of Registration (Assurances and Companies)..	......
6. Jail Department . . .	......

General reservations.—The exercise of provincial powers of taxation and legislation in all subjects whether transferred or not should require the sanction of the collective Government.

C. G. TODHUNTER,
Acting Chief Secretary.

13th January 1919.

No. 9745, dated Bombay Castle, the 11th November 1918.

From—L. C. CRUMP, Esq., I.C.S., Officer on Special Duty (Constitutional Reforms),
To—The Secretary to the Government of India. Home Department.

With reference to paragraph 1 of Mr. Secretary Hignell's letter no. 950,* dated the 15th July 1918, I am directed to reply as follows :—

* *Vide* **Serial no. A.-319 for August 1918.**

2. The Government of India desire an expression of the views of this Government on paragraphs 212 to 295 of the Report on the Indian Constitutional Reforms. The need for criticism is recognised in paragraph 354 and while this Government is anxious to support as far as possible the main principles of the scheme they find it necessary to point out certain defects.

3. The question of administrative and legislative devolution is dealt with in paragraphs 212 and 213, and upon these subjects this Government has only two suggestions to offer. First in the opinion of this Government, the demarcation of the Imperial and Provincial spheres, both legislative and administrative, should be effected by statute and not by any species of constitutional practice. As regards legislation in particular it would, in practice, be inconvenient that the powers of the Provincial and Imperial legislatures should not be clearly and unmistakably defined, and it is further important that that definition should be a statutory definition in order to avoid any possible doubt as to the competency of the respective legislatures and to escape the possibility of legislation by one body encroaching on the sphere of the other body. In the second place I am to suggest that although the question of the relaxation of the control of the Government of India in the administrative sphere can be dealt with at any time and need not therefore necessarily be decided now, yet in the opinion of this Government some relaxation will undoubtedly be necessary in view of the greater powers which it is proposed to give not only to the Provincial Governments but

also to the Provincial Legislative Council. The Governor in Council is inclined to doubt whether it is correct to say that a general relaxation of the control of the Government of India would be opposed by Indian opinion, as is suggested in paragraph 213 of the report. The Governor in Council has reason to believe that the contrary is the case. It is however unnecessary to enter into the details of this question as it is one that can be dealt with independently of the proposed reforms.

4. The next matter which calls for discussion is the Provincial Executive which is dealt with in paragraphs 214 to 224. On this most important and difficult question the Governor in Council, I am to say, regrets that he is unable to accept the proposed scheme of government as one which is likely to work satisfactorily in practice. The Governor in Council is aware that the proposal is intended to meet a period of transition only. But it is not possible to say with any approach to certainty how long this period of transition is likely to last, and it is therefore not easy to accept for an indefinite period a scheme which is open to serious objection. That such a scheme as is proposed could not be accepted as permanent is recognised in paragraphs 233 and 354 of the report. But whatever the transition period may be, the work of administration has to be continued, and in the opinion of this Government it is unsafe to accept a form of Executive which is admittedly open to serious criticisms merely because it furnishes a convenient stop-gap. This Government, I am to say, fully appreciate the ingenuity of the proposed solution and the advantages which it offers in theory in the way of future development on settled lines. But administration is a practical business. It is proposed to substitute for a form of Government which, whatever its defects, is well tried and has in the working produced results which are far from negligible, a machinery which is wholly untried and which is, it is believed, without precedent in the history of the world. Therefore, I am to say that the Governor in Council considers that the burden of establishing the practicability of the new form of Government lies very heavily upon those who advocate it. I am further to point out that criticism directed against the existing form of Government or the development of that form which is found in paragraph 217 of the report is open to the obvious answer that the form of Government criticised is at least one which can be seen at work while no such answer is possible to any criticism of the new scheme. Further, when it is admitted, as in paragraph 217 of the report, that an extension of the existing form of Government would not have been unfavourably received in India, it is surely not unfair to argue that the merits and the validity of the new proposal should be established by those who advocate it beyond all reasonable criticism. Also it is, as every practicable man must admit, difficult if not impossible to forecast what difficulties may arise in the working of machinery so novel and so complicated, and therefore it is impossible to feel that such criticism as is attempted can be exhaustive. Of the existing form of Government we know the best and the worst, but of that which is proposed the virtues and defects can only be conjectured. On these general grounds, the Governor in Council is most reluctant to make a leap in the dark which the proposal implies. He prefers most strongly to adhere to that which is known and can be trusted and to proceed upon that basis rather than to risk a doubtful experiment. He considers that the new scheme is obnoxious to criticisms which are at least as cogent

as those which can be suggested against a development of the Executive Government upon the present lines and therefore the burden has not been discharged by those who are endeavouring to substitute the new scheme for the old.

5. In addition to these general considerations, there are certain special criticisms which the Governor in Council wishes to offer for the consideration of the Government of India. What he finds it impossible to accept is the proposed division of the Executive Government into two portions. He regards it as a fundamental principle that the responsibility of the Executive Government, or Cabinet, or whatever it may be styled, shall be one and undivided. He considers that the suggested division of functions contains the seeds of friction which will, in all probability, lead to a complete deadlock, and he doubts whether it is in fact possible to divide the functions of Government in the manner proposed. Yet, such a division is essential for the successful working of the scheme. It is proposed that the subjects with which Executive Government have to deal should be divided into two portions known as the reserved and the transferred subjects. The report seems to assume that it will be easy to classify the functions in question and allot them to councillors on the one hand or ministers on the other in accordance with a pre-conceived plan. It is necessary to point out that this pre-supposes that each member of council under existing conditions exercises independent control as regards the subjects allotted to his charge. This however is not the case. Apart from cases in which it is necessary to obtain financial sanction which will be dealt with hereafter, the whole theory of Government by council postulates that in all cases other than those of secondary importance the orders of two members of council will be obtained. It is in fact this feature of Government by council which renders it, in the eyes of the Indian public, distinctly preferable to that by a single Head. So long as the public feel that orders in all matters of importance receive the concurrence of at least two members of the Government, particularly if one of those members is an Indian, they feel confident that questions or issues will have been considered in all their aspects and that justice will be done to all concerned.

6. It appears however to be assumed that it will be possible to divide the functions of Government into two separate compartments, with reference to one of which the councillors will act and the ministers will advise and with reference to the other, the ministers will act and the councillors will advise, and it is assumed that the number of cases in which their functions will overlap will be comparatively few in number and such as can easily be settled in the event of the difference of opinion by reference to His Excellency the Governor. But is it possible to demarcate the various functions of Government into two distinct spheres and to lay down that questions arising in one sphere shall be dealt with by one part of the Government and those arising in other sphere by another part? A reference to the records of Government will show that there is scarcely a question of importance which comes up for discussion and settlement in any one of the departments of Government which does not require to be weighed carefully in the light of considerations which form the province of another department of Government. The primary duty of the Government as a whole is to preserve peace and order, to protect the weak against the strong, and to see that in the

disposal of all questions coming before them the conflicting interests of the many different classes affected receive due attention. And it follows from this that practically all proposals of importance put forward by the minister in charge of any of the departments suggested for transfer in Illustrative List no. 11 appended to the report will involve a reference to the authorities in charge of the reserved departments. It is more correct to say that so far from questions on which the functions of the two portions of the Government overlap being few in number as is implied in paragraph 221 of the report, there are few if any subjects on which they do not overlap. Consequently the theory that in the case of a transferred subject in charge of a minister it will be possible to dispense with reference to departments of Government concerned with the control of reserved subjects is very largely without foundation.

7. It is undesirable to burden this letter with detail. But a reference to one question which is at present attracting the attention of this Government will show that this statement is fully justified. Take, for instance, the question of introducing free and compulsory education. At first sight it would seem to be impossible that this question should impinge to any material extent on the functions of those departments which are intended to be reserved for the Executive Council. It would seem to be in its nature so entirely educational that except in so far as financial provision is required no other department would have to be consulted. But as the discussions in Council have shown there are a number of points in which other departments are concerned. In the first place, it is clear that the introduction of compulsory education must, if experience in England is any guide, be accompanied by a large increase in the number of prosecutions of parents for not sending their children to school. It is possible that the enforcement of this policy in manufacturing areas where the children earn good wages in the mills might lead to discontent on the part of the mill-hands and consequent disturbance. The matter must therefore be considered from the police point of view. Secondly, the disposal of this large number of prosecutions might involve a great strain on the magistracy. This would have to be considered from the point of view of the judicial department. Thirdly, the compulsory attendance of children at schools in rural areas, particularly at harvest time, might reduce the supply of labour in areas where that supply is inadequate and render it impossible to gather the crops as they ripen. This might seriously affect the ability of the ryot to pay his assessment and would therefore have to be brought to the notice of the revenue department. Such instances are by no means rare. It cannot, in the opinion of the Governor in Council, be too clearly recognised that the functions of Government must remain under one authority and that any attempt to divide them on stereotyped lines can only result in confusion.

8. I have dealt so far with the impossibility of allocating responsibility for separate subjects to individual members of the Government due to the necessity for considering Government as a whole. I am now to consider how far it is possible to impose complete responsibility on the ministers and at the same time secure an uniform standard of financial control throughout the whole Government. In this connec-

tion I am to express a feeling of disappointment at the somewhat inadequate method in which this question has been dealt with in the report. The matter is discussed in paragraphs 221 and 256 and the assumption underlying those paragraphs appears to be that the ordinary procedure will be that the council and the ministers combined are to frame a budget which will thereafter be presented to the Legislative Council. In framing this budget as well as in passing it through the Council the Governor in Council will be entitled to demand that adequate provision shall be made for reserved subjects. When this is secured and when the whole budget has been passed by the Legislative Council the ministers in charge of the transferred subjects will apparently be at liberty to expand the lump budget grants placed at their disposal without control or check other than the somewhat shadowy veto of His Excellency the Governor. It is apparently contemplated that some friction may arise when these budget grants are fixed, but that as soon as the budget is settled the possibilities of conflict between the Councillors on the one hand and the ministers on the other will disappear. Each will have their own grants and the ministers will be responsible to the Council (or to their constituents, it is not clear which) for the manner in which they spend them.

9. It is difficult to believe that this is seriously intended. At the present moment, as is well known, all proposals put forward by various departments of Government have to be referred to the Financial Department for sanction. The latter department decides, in the light of standing orders issued by the Secretary of State, whether from a financial point of view they are expedient and whether they are within the powers of the provincial Government to deal with or whether they must be referred to higher authority for sanction. In other words, the financial department of the provincial Government like the Treasury in England is invested with the superintendence and control of all expenditure up to the time when it is made: the fact that there is budget provision merely indicates the acceptance by the finance department of the probability that the expenditure will be necessary but it does not imply actual sanction to its being made. Is it intended that when subjects are transferred to the control of the ministers that the present system should continue?

10. The question is one of very great importance. In the English Cabinet the Finance Department, in other words the Treasury, under the control of the Chancellor of the Exchequer, who is of course a member of the Ministry, is charged with the superintendence of all revenue and expenditure. The position of the Treasury "may be regarded as one of perpetual conflict with servants of the State who want more pay than the Treasury thinks they are worth, with the departments of Government which want more money than the Treasury is prepared to ask for from the Parliament and Government, with the House of Commons which contests the amount demanded and the mode in which it is proposed to be raised and with the tax-payer." When the new constitution is established and the ministers in charge of transferred subjects appointed, who is to perform the duty assigned to the Treasury in England? Is the Finance Department to be concerned with the transferred subjects or not? If the answer to this question is yes, it is clear that the head of finance department who is *ex hypothesi* a

Councillor must control the method in which grants made for transferred subjects are expended. He must therefore become responsible along with the ministers and responsible to a very marked extent. Thus the theory that the ministers and ministers alone are responsible to the legislature becomes untenable.

11. If the head of the finance department is not to exercise any control, then it will be necessary to set up another finance department under the control of the ministers whose duty will be to superintend the expenditure of grants made for transferred subjects. In the latter case, there will inevitably be different financial standards for different departments under the same Government and this must eventually lead to friction, waste and maladministration. The result is that it is impossible in the opinion of this Government to contend that the proposals of the report will achieve their object, namely, delegation of responsibility to the ministers. The essential indivisibility of the functions of Government and the necessity recognised in all Governments throughout the world of maintaining the unity of financial control at once renders this impracticable.

12. But there is still one feature more which, in the opinion of this Government, calls for serious criticism. It is proposed that the ministers shall, if they require revenues beyond those allotted to them, after the provision of funds for reserved subjects, be at liberty to propose taxation for which they and they only shall be responsible. Now it seems to this Government that where taxation is concerned it is quite impossible to say that the minister shall be responsible and the councillors shall not. The public would most certainly hold the whole Government responsible, so that here too the proposal in the report to transfer responsibility by compartments would prove a failure.

The odium of new taxation should rest upon those whose policy has made that taxation necessary. But this will not inevitably be the case under the proposed scheme. It is not improbable that the demands of the reserved subjects may compel the Governor in Council to allocate so large a portion of the available funds to those subjects as to leave no sufficient surplus for the administration and development of the transferred subjects. The power to impose fresh traxation is vested in the ministers alone, and they may be compelled to appeal to the Legislative Council to impose fresh burdens on the public to meet expenditure which is not required by any policy of theirs. This would place the ministers in a false position, and inevitably give rise to undesirable friction. On this ground also it appears expedient that proposals for fresh taxation should emanate from the whole Government.

13. Finally, it is proposed that the minister who is first appointed should be on his trial for a period of training and at the end of this period his constituents should decide whether or not his policy has been such as to justify them in re-electing him to the Legislative Council. Now it is hardly necessary to observe that the electorates thought this Presidency must be ignorant and it will be necessary, if they are to arrive at a fair estimate of the virtues or defects of the retiring minister, that they shall have a clear idea of what he has done. He may act on his own responsibility or in concert with another minister, or as one of the entire Government, or against his will under the control of the Governor. I am to urge that it would be impossible for the public to

distinguish between these cases. It will be difficult even for a highly educated person such as a Collector to distinguish between the authorities responsible for the various orders which may reach him. It would be impossible for the ordinary agriculturist voter to know that the order directing him to vaccinate his child comes from the minister whom he returns to Council because the latter is concerned with sanitation and that another order under the Police Act directing him to attend a roll call every day comes from an executive councillor with whose continuance in office he has nothing to do. The difficulties inherent in the introduction of an electoral system in rural areas in this Presidency are already considerable. It will be impossible to expect from the voters, 80 per cent. of whom will be illiterate, more than general ideas on the subject of what they consider right or wrong in the actions of their representatives. If before judging the latter they are expected to possess the knowledge of a correct classification which at the present moment is not possessed by any one who has not a close acquaintance with the work of the Secretariat, it is obvious that their votes cannot be given intelligently and that the theory that the ministers will be responsible to their constituents is in practice an illusion.

14. I am further to point out that the convention insisted on in paragraphs 221 and 222 that the two portions of the Government should form not two Governments, but one Government and that the decision should be loyally defended by the entire Government is likely to lead to difficulties more serious than appear to be recognised in those paragraphs. It is possible, it is even probable, that occasion will arise when the decision of that part of the Government which is responsible for the reserved subjects will not meet with the approval of the ministers, and it is equally probable that the decisions of the ministers with reference to the transferred subjects may not be approved by the members of the Executive Council. In such cases it would be extremely difficult for the Government to act as a whole in the face of the public. Where all the members of Government have a voice in the decision of any matter, as in the form of executive advocated by this Government, any member can fairly subordinate his own views to the decision of the whole body of which he is a member. He has had his say in the matter, he has recorded his vote, and if the decision goes against him, as a member of the Government he is perfectly entitled to uphold the decision of the majority. But here it is proposed that the minister or member of the Executive Council, as the case may be, should support a decision of which he heartly disapproves and as to which he has had no deciding voice. In the form of Government advocated by the Governor in Council the decisions are, in reality, the decisions of the whole Government and can be defended as such. In the opinion of the Governor in Council this is a most serious objection which it is difficult to accept even for a period of transition.

15. I am now to invite attention to the formidable list of duties which the new scheme will impose upon the Governor. It will be for him to decide *inter alia* (*a*) who should be selected as minister or ministers (paragraph 218), (*b*) whether the allotments for reserved subjects should be insisted on or not (paragraph 254), (*c*) whether a subject belongs to the reserved or transferred sphere (paragraph 221), and to decide in cases where a subject trenches on both spheres, (*d*) whether

legislation should be certified or not (paragraphs 252 and 253), (*e*) whether a bill should be assented to or returned for consideration (paragraph 254), (*f*) and whether the proposals made by a minister as to a transferred subject shall be vetoed (paragraph 219). The majority of these duties are imposed upon the Governor owing to the suggested division of the two spheres of Government, and in the opinion of this Government the burden, in practice, will be intolerable. Every one of these decisions may give occasion for friction between the Governor and the minister or possibly between the Governor and the Legislative Council. An occasion for political agitation may arise out of all or any of these matters. The last duty in particular will impose upon the Governor the necessity of keeping a close and constant watch on every order issued in the transferred sphere.

16. It may be objected that it is proposed to issue for the guidance of the Governor an instrument of instructions such as is contemplated in paragraph 219. Without the text of the proposed instrument it is difficult to criticise in detail, but the Governor in Council is of opinion that it is impracticable to provide in such an instrument instructions which can be exhaustive having regard to the diversity of the difficulties which can be foreseen, and when allowance is made for the unforeseen difficulties, the impracticability of the proposal is even more obvious. If the instrument is not exhaustive, it ceases to be of much value. In the nature of things, it cannot be exhaustive and it will merely serve to fetter the discretion of the Governor in circumstances which cannot have been anticipated when it was drafted. If, therefore, the control of the Governor is to be the ultimate safeguard as it will be in many matters under the proposed scheme, there should be no endeavour to fetter that control in the manner proposed. The above remarks, I am to say, contain the main criticisms which the Governor in Council offers for consideration with reference to this portion of the subject, but he would again insist that it is beyond human sagacity to forecast with accuracy the manner in which such machinery as this will work. There may be other and more serious difficulties which have not been foreseen and which time alone can bring to light.

17. The Governor in Council has so far set out what appear to him to be the principal objections to the form of executive Government proposed in the report. I am now to set out the main lines of the alternative which he advocates as being suitable to the conditions of this Presidency.

I.—The executive should consist of five members including the Governor. There should be four members of Council of whom three should be Indians. Of these three, two should be chosen from among the elected members of the Legislative Council. The Governor should have power to appoint a fifth member of Council at his discretion should necessity arise.

II.—There should be a largely increased Legislative Council with a substantial elected majority of about four-fifths.

III.—There should be no division of subjects either in the Executive Government or for the purposes of the Legislative Council.

IV.—There should be standing committees both financial and for the other departments of administration.

V.—Resolutions of the Legislative Council on matters of administration should be recommendatory only.

VI.—The Budget for the year should be prepared by the Executive Government and presented to the Legislative Council not later than January in each year after consideration by the Financial Standing Committee. All items in the Budget both on the income and the expenditure side, should be discussed and passed by the Legislative Council with such alterations as they may deem necessary. The Governor will have a right of veto as a result of the exercise of which the original estimate shall be reinstated.

VII.—Legislation by the Legislative Council should also be subject to the veto of the Governor in cases in which he considers the peace, order and the safety of the State is at stake.

VIII.—As regards Government Bills, reference is invited to the proposal explained in paragraph 25.

With regard to the proposal to give the Governor discretion to appoint a fifth member of Council I am to point out that the considerations set out in paragraph 266 of the Report as to the burden of work imposed upon the members in charge of the Departments of the Imperial Government apply with equal force to the case of the Provincial Governments. The increased size of the Legislative Council and the creation of Standing Committees will entail a great strain on the members of Government. That strain is already heavy and may well become impossible to endure in the near future. No doubt the scheme comprises the addition of one member of Council, but it is quite possible to conceive that a time may come when even this increased Executive will be unable to cope with the increase in work. Therefore it is provided that the Governor should have discretionary power to appoint a fifth member.

18. I am now to set out the advantages of this proposal. In the first place, it leaves Government free to act together on all subjects and to present an united face to the outside world. Secondly, it avoids the complications inseparable from an attempt to divide the functions of Government. Thirdly, the system of financial control is simple and efficient. The budget will be discussed and passed by the Legislative Council, and their resolutions will be binding in all cases except when His Excellency the Governor considers that peace, order and the safety of the State require the exercise of his veto. Fourthly, the Legislative Council, which has a largely increased elective majority, is placed in the position in which it can demonstrate during this period of training its fitness to exercise still greater powers. Fifthly, the individual members of this Council will enjoy the same opportunities as the report affords them of association with the Executive Government on advisory committees and of dealing at first hand with important questions connected with the Budget and the various administrative departments.

19. It has been suggested that a scheme of this nature is defective in that there is no direct responsibility on the part of the Legislative Council and that this will encourage members to indulge to an increasing extent in irresponsible criticism. To this the Governor in Council

entirely demurs. He contends that the proposal connotes full devolution of responsibility on every member of the Legislative Council as regards the whole sphere of administration, whereas the proposal in the report imposes responsibility on the Legislative Council through the minister or ministers as regards the transferred subjects only. The veto of the Governor is common to both.

20. I am to urge strongly for the consideration of the Government of India that the training imparted in this way will be far more effective than any which can be secured by the scheme put forward in the report. The advisory committees will be able to study the various questions placed for their consideration from all points of view. There will be no artificial barriers placed between the various classes of subjects and there will be one single financial controlling authority. It may be anticipated that occasions will seldom arise for the exercise of the Governor's veto.

21. I am further to say that not only does the scheme set out above confer a higher degree of responsibility than the scheme of the report, but that any criticisms of the proposals of this Government must also take into account the development of local self-government which is an essential part of their programme of reform. The views of this Government on this most imporant branch of the subject have already been set out in their letter no. 362-P., dated November 15th, 1917. It is in this sphere that this Government would set up an additional training ground in responsible Government. They consider that the time has come to establish a chain of local bodies entirely elected and having their own organization and control of their own finances. These bodies would be responsible for all matters of local concern such as primary education, health and sanitation, roads and buildings—subject only to a general control to be exercised by a Department of the nature of a local Government Board. Can it be fairly said that a scheme of this nature does not provide for "the gradual development of self-governing institutions with a view to the progressive realization of responsible Government"? The changes which this Government advocates in the constitution of the executive Government, the increase in the Legislative Councils and the enlargement of the powers of that body taken in conjunction with the proposed development of local self-government make up a very large instalment of what must be conceded before complete responsible government is reached.

22. With reference to the composition of the Provincial legislature (paragraphs 225 to 235 of the report), I am to say that this Government agree with the main recommendations in the report, that is to say, that the system of indirect elections should as far as possible be swept away and that the franchise should be made as broad as possible. The further questions involved in this subject must, in the opinion of this Government, await the complete preparation of statistics and the deliberations of the committee on franchise which is about to assemble. The time which has been allowed to make an electoral survey of a population of over 20,000,000 has been somewhat short and the information is necessarily imperfect. But more particularly upon the question of communal representation, other than that for Mussalmans, I am to say that much depends upon the exact results of the principles which the committee proposes to lay down for the preparation of electoral rolls. Until

it is known how many voters of each community will come upon the register, it is impossible to deal adequately with this question, and until a definite franchise has been formulated, any conclusions drawn from tentative proposals which might be put forward by this Government will be vitiated by any change in the underlying principles. Therefore, it is impossible to express an opinion of any value on this subject.

23. As to the control of business in the Legislative Council which is dealt with in paragraphs 236 and 237 of the report, this Government, I am to say, would express its concurrence in the principles laid down.

24. The question of the division of subjects is dealt with in paragraphs 238 to 246 of the report, and upon this matter I am to say that the opinion of this Government upon the proposals to divide the spheres of Government has already been expressed. But if on a consideration of these and other criticisms the proposal is adhered to, the exact details must be left to the examination which is about to be undertaken by the committee recently appointed to deal with this subject. The opinion of this Government upon that point will be ready in a very short time and will be separately submitted to the Government of India.

25. As to the suggested method of legislation dealt with in paragraphs 247 to 254 of the report, I am to say that the Governor in Council doubts whether this will not be found extremely cumbrous in actual working. A division of the spheres of Government into two parts, the reserved and the transferred, if it is to be accepted as part of the new scheme, no doubt calls for differential treatment in the methods of legislation on the lines of this division. The responsible authority must have power to carry through any legislation which it deems necessary, and after considering the various methods available this Government agree that some special device is necessary as regards the reserved sphere of Government in the face of the fact that there will be a large non-official majority in the Legislative Council. They also think that the special machinery should be found in the Legislative Council itself and not by recourse to any power outside that body. But the proposal that the Governor should be guided in the exercise of the power of certification by an instrument of instructions appears to this Government to be impracticable. Here again I am to say it is thought that it will be impossible in practice to draft an instrument which can be any real guide to a Governor in exercising the proposed power. The circumstances under which certification may be necessary are so diverse that if the power is to be exercised at all, full discretion must be entrusted to the Governor. Further, I am to say that the Governor in Council cannot regard with approval the proposal that the Legislative Council should have the power to appeal to the Government of India against the Governor's certificate. This appeal appears to involve an undesirable position and to introduce unnecessary delay. The position of the head of the Government on the one side and the Legislative Council on the other waiting for the decision of the Government of India on an appeal of this nature is one which this Government cannot contemplate with equanimity. As to the procedure by a grand committee, I am to point out that this will undoubtedly be resented by the non-official element in the Legislative Council. The grand committee will consist of 40 or 50 per cent. of the whole Council. A large number of elected members must therefore be excluded and will have no vote. These members will

be reduced to the position of mere spectators and that position will be keenly resented. In place of this cumbrous procedure the Governor in Council would propose that in the reserved sphere the effect of the Governor's certificate given on the introduction of the Bill should be that an absolute majority shall not be necessary to secure its passage. A simple provision of this nature would make it possible to dispense with the grand committee and to treat all legislation upon practically identical lines. That the suggestion is not likely to excite opposition appears from the fact that the National Congress, in proposing a division of subjects in the Government of India, have made the suggestion that in the reserved sphere of legislation the votes of 40 per cent. of the members present should be sufficient to carry a measure through the Council. The Governor in Council is prepared to accept a similar provision as regards reserved legislation in the Provincial Council in the event of the proposals in the report being brought into force and is of the opinion that this solution is preferable to that proposed in the report

26. With reference to the question of budget procedure referred to in paragraphs 255 to 257 of the report, I am to say that this Government approves in general the proposals.

27. As regards the proposals with reference to the Government of India the Governor in Council has no criticism to offer As regards the India Office (paragraphs 290 to 295) this Government accept the views set out in the report

28 I am to add that the Hon'ble Sir Ibrahim Rahimtoola has found himself unable to accept in their entirety the views expressed in this letter He is preparing a separate minute which will be forwarded hereafter

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Minute of dissent by the Hon'ble Sir Ibrahim Rahimtoola.

While admitting that there will be many difficulties in giving effect to the provisions of the Reforms Scheme, it does not appear to me to be either impracticable or unworkable. There appears no reason why the members of the Executive Council and the ministers should not work in complete co-operation. The scheme lays down that the whole Government will deliberate together on all subjects and that there will be a joint discussion in which both parts of the Government will be entitled to participate. The only difference is that in voting on the reserved subjects the members of the Executive Council will alone take part, while in the case of the transferred subjects, the ministers will only vote. His Excellency the Governor will be entitled to vote on both classes of subjects. It has to be borne in mind that before exercising the right of voting the members of the Executive Council will have freely expressed their views in regard to questions affecting the transferred subjects and the ministers will have done so in regard to reserved subjects. The votes will therefore be recorded by both parts of the Government after a free discussion and on full consideration of all the points brought forward by all the members of the whole Executive Government. It is necessary that the voting should be by the members of each part of Government in respect of subjects for which they are to be held responsible. If there was no such division in the matter of voting, there would be no direct responsibility and the whole subject of the scheme which is to concede responsibility in regard to subjects transferred to the charge of ministers would be frustrated. The object of the Reforms Scheme is to train popular representatives to exercise the powers and privileges of responsible government and this can only be done by leaving them free to exercise the right of voting in regard to subjects transferred to their charge. Unless this is done, there can be no real responsibility.

2. It must be borne in mind that the ministers will be selected during the transition period by the Governor and the members of the Executive Council will be nominated on his recommendation. It may therefore be taken for granted that both the parts of the Executive Government will represent the choice of the Governor, and that in itself provides ample safeguards against wilful obstruction. There is also the further safeguard that every subject coming up for decision will be discussed jointly by all the members of the Executive Government and therefore before the exercise of the right of separate voting the reasons and arguments for and against will be present to the minds of all parties. I do not think there are any grounds to believe that the ministers will not be fully alive to their responsibilities and will not decide points arising in regard to transferred subjects in a just and reasonable manner. It must be noted that the initial stage is one of transition and that the concession of further responsibilities will depend upon the manner in which the ministers manage the subjects transferred to their charge. It cannot be disputed that the educated classes want full self-government at as early a date as possible and they clearly realise that during the

transition period they are put on a trial. The effect of this procedure will be not only that they will get the necessary training to exercise the privilege of responsibility but it will serve as a stimulus to shew their capacity to manage their own affairs in the best interests of the people of India and claim the full rights of responsible government by early and rapid stages. I do not know the circumstances of other provinces so well, but I can reasonably claim to know the conditions prevailing in this Presidency and can unhesitatingly say that so far as Bombay is concerned there does not appear to me any reason why an Executive Government as proposed in the Reforms Scheme should not work smoothly and in complete co-operation.

3. Having given reasons why I think that the Reforms Scheme is neither impracticable nor unworkable, I must confess that I would prefer an undivided Executive Government, provided the main feature of the scheme which is to confer responsibility in regard to certain subjects of administration is ensured. I think it would be a great improvement, if the division of reserved and transferred subjects was carried to the largely elected Legislative Council instead of providing it in the Executive Government. I agree that the Legislative Council should consist of 125 members, four-fifths of whom to be elected and one-fifth nominated. I also agree that the Executive Government should consist of five members including the Governor, of whom one shall be an official, one non-official Indian and two Indians nominated from amongst the elected members of the Legislative Council This merely means that the Executive Council will consist of all the five members recommended in the scheme for the two parts of Government, the executive councillors and the ministers. I have no objection to the provision that if at any time the Governor is satisfied that the work has so far increased as to justify the appointment of an extra member, he should have the power of doing so on an unrestricted basis. Personally, I do not think such a contingency is likely to arise but there can be no objection to make such a provision in case it is required in the future when the scheme has been in force for a reasonable time.

4. The scheme recommended by this Government is open to the objection that it does not concede any responsibility and therefore does not fulfil the main object of the scheme. It is perfectly true that the whole of the Budget will be put before the Legislative Council and it will have to be passed by them. This is a great advance on present conditions, but the veto of the Governor is provided for all items. This means that the real responsibility for all budget provisions will remain in the hands of the Governor The Legislative Council may make any changes they like, but each such change will have effect only if the Governor does not exercise his right of veto. Under such a scheme it cannot be said that any responsibility will be really transferred from the Executive Government to the popular representatives. The proposal in regard to legislation is also open to the same criticism. Under recommendation no. VII legislation by the Legislative Council is made subject to the veto of the Governor, but in only those cases in which he considers the peace, order and the safety of the State are at stake. To this restricted veto no objection can be taken, but under the eighth recommendation it is provided that "As regards Government Bills reference is invited to the proposal explained in paragraph 25." Paragraph 25 deals with

the Grand Committee and suggests an alternative method for legislation in regard to reserved subjects. I agree that the procedure suggested of constituting a Grand Committee is cumbrous and undesirable and should be abandoned. I also agree that legislation for reserved subjects should be considered carried by the vote of 40 per cent. of the whole Council. This is a great advance on the proposal of the Grand Committee. The Bombay Legislative Council is proposed to be constituted with 125 members of whom 100 will be elected. 40 per cent. of 125 is 50. Assuming that all the 25 nominated members will vote with Government, the votes of 25 elected members will be necessary before any legislation can be carried. If Government cannot secure the votes of even one-fourth of the elected members, it becomes politically inexpedient to persist in it. The responsibility will remain with the popular element of rejecting or amending proposed legislation which may appear to Government to be necessary or desirable. This paragraph does not appear to deal with all Government Bills as mentioned in the eighth recommendation. If the intention is to apply this procedure of 40 per cent. to all Government Bills, then I cannot agree with it as no real responsibility will be transferred to the Legislative Council. As a matter of fact, almost all Bills introduced in the Legislative Council are Government Bills and if the 40 per cent. procedure is proposed to be applied to all Government Bills, then there will be very little responsibility transferred to popular control. I cannot agree with such a proposal.

5. It will be observed that under the proposals submitted by this Government will be practically no real responsibility upon the popular element either in the Executive Government or in the Legislative Council and that they do not therefore satisfy the fundamental principle upon which the Reforms Scheme is based It appears to me as has already been pointed out, that it would be a great improvement if the responsibility was transferred to the largely elected Legislative Council instead of to the ministers. It will be a distinct advantage if there is a united Executive Council constituted as mentioned above and that there should be transferred and reserved subjects in the Legislative Council. In considering the question of transferred and reserved subjects this Government has come to the conclusion * that if the scheme is to be given effect to in the form it is published then the following should be reserved :—

*The Hon'ble Mr. Carmichael dissents as to Land Revenue which he would reserve.

Peace and Order,
Law and Justice,
Political,
Major ports,
Services [Imperial]

and that all other subjects should be transferred Taking this as the basis for my suggestion, I would recommend that all the resolutions passed by the Legislative Council in regard to all items of the Budget shall be binding subject to the right of veto to be vested in the Governor in regard only to the above five subjects. In regard to all the resolutions dealing with these five subjects, the Governor may exercise his veto, the result of which will be that the original estimate shall be reinstated.

The effect of this suggestion will be that the Legislative Council will be directly responsible for all the subjects of administration except the five noted above. In regard to these they will have full opportunity of discussion while the responsibility for the amount actually sanctioned will ultimately rest with the Governor.

6. As regards legislation, I would advocate the same procedure. All Bills brought before the Legislative Council dealing with any one of these five subjects shall be subject to the rule of 40 per cent. votes while Bills dealing with all other subjects shall be passed by a bare majority of the Legislative Council.

7. Under such a scheme there will be a united Executive Government, which shall contain two Indian elected members, while the Legislative Council elected on a popular basis and with a largely elected element will be directly responsible for the large number of transferred subjects. The Governor as the head of the administration and the president of the Executive Council will be directly responsible for the reserved subjects both in regard to the Budget and legislation. In short my suggestion is that instead of having divided subjects in the Executive Government they should be worked in the Legislative Council. This will ensure training for responsible Government to a larger number of persons, four-fifths of whom would find their seats by election on largely widened electorates. They will be directly responsible to their electors for all transferred subjects and will have to justify by their work their claims for re-election. Dyarchy in the Executive Government will be done away with and the training and experience for carrying on responsible government will be secured by large number of representative men. The fundamental object of the Reforms Scheme will be fulfilled and the Provinces will be put on the road to qualify for full responsible government at an early date. The test of their capacity to discharge responsibility direct in regard to "transferred" subjects and indirect in regard to "reserved" will be easily ascertainable and the results of the transition period can be accurately gauged, for further progress.

IBRAHIM RAHIMTOOLA.

16th December 1918.

No. 2304-A.—D., dated Darjeeling, the 15th October 1918.

From—The HON'BLE MR. J. H. KERR, C.S.I., C.I.E., I.C.S., Chief Secretary to the Government of Bengal,

To—The Secretary to the Government of India, Home Department.

I am directed to reply to your letter no. 950, dated the 15th July 1918, in which the local Government were asked for an expression of their considered opinion on the proposals contained in *paragraphs 212—295* only of the Report of His Excellency the Viceroy and the Secretary of State on Indian Constitutional Reforms.

2. The Governor in Council has consulted representative Associations as well as selected officials and non-officials in the Presidency, and copies of the replies received from the more important bodies (as noted in the margin) are enclosed. It is impossible, within reasonable compass, to summarize the purport of all these opinions, much less of the constant and voluminous discussion in the press and on the platform which the subject has attracted in recent months. The letters which are submitted *in extenso* are typical of different aspects of non-official opinion and merit perusal as a whole. The views of representative members of the Indian Civil Service have been ascertained demi-officially, and the Governor in Council has considered them in arriving at the conclusions set forth below, but before proceeding to explain his own standpoint, some general tendencies disclosed by the opinions collected from different sources may be briefly outlined.

Bengal Chamber of Commerce.
British Indian Association.
European Association.
Anglo-Indian Association.
Bengal Landholders' Association.
Calcutta Trades' Association.
Bengal Presidency Moslem League.
Marwari Association.
Anglo-Indian Empire League.
Indian Association.
Central National Muhammadan Association.
Indian Moslem Association.
National Chamber of Commerce.
National Liberal League.

3. Official opinion is, on the whole, frankly dubious as to the working of the scheme, and the most experienced administrators in this Presidency regard it with serious misgivings, even as a temporary measure during a transitional period. There is little disposition to cavil at the declaration of the 20th August 1917 regarding the ultimate goal which it is sought to reach. It is indeed recognised that it is no new goal of British administration in India, and this point may well be emphasized at the outset, lest *bonâ fide* doubts of practical men be brushed aside as inspired solely by a reactionary spirit of self-interest, but there is a widespread feeling that the line of advance proposed in the Report is attended with even graver difficulties than are in fact admitted and that these may cause a serious breakdown. Whatever the intentions of the framers of the Report (*cf.*, *paragraph 262*), it is apprehended that the scheme is bound, in practice, to lead, at any rate in the first instance, to the establishment of an oligarchy, the smooth working of which in conjunction with an official element of different traditions is at least problematical. With every wish, on both sides, to proceed in the spirit of sweet reasonableness and mutual respect for

varying outlooks, upon which the Report admittedly relies for its successful fulfilment (and which indeed, if realized, might render any system workable), yet human nature being as it is, the attainment of this ideal may well be regarded as far off, and much that has been said and written since the appearance of the Report is, from this point of view, disquieting. It is pointed out that the scheme suffers from want of elasticity, and that the complicated checks and counterchecks provided besides causing delay and inefficiency in the disposal of public business, are likely to prove uncertain in their operation. A few officers who are in favour of an immediate division of administrative functions would prefer a more specifically dualistic form of Government, which would be simpler in working, while giving the non-official branch of the Executive more definite responsibilities in respect of the duties entrusted to it. It is urged that the two machines would work better independently than if amalgamated in some complicated fashion in order to give them the appearance of a united whole. Others again favour proposals which could not well be fitted into the framework propounded by the Report, but for the reasons explained below (*cf. paragraph 8*) these are not now detailed at length, more especially as most of such alternatives have already been considered and rejected in the course of the enquiry of last cold weather.

4. The Government of India will already have gathered from the press the general trend of non-official opinion. Each section naturally regards the proposals largely from the point of view of how its own interests are likely to be affected. European opinion, though by no means generally opposed to an advance towards responsible government, is disposed to question the advisability of raising the matter at the present time and the adequacy of the protection afforded to commerce and industry. It is particularly opposed to the proposal that the general European community should be included in the new Councils by nomination, and forcibly urges its claims to a special electorate with an adequate representation, which cannot solely be based upon the numerical strength of the roll of voters. There is a general feeling that the whole scheme is too elaborate, that any plan for which so many artificial safeguards are required must be seriously defective, and that power is bound to fall into the hands of the advanced political section to the detriment of the masses of the people, who neither need nor desire any material changes in the existing system of Government. Generally speaking too, it is felt that adequate examination and criticism of the proposals is impossible in the absence of any definite constitution of the electorates by which the Government of the future will be returned, or again of the respective functions to be made over to the official and non-official sides of the Executive.

5. It is more difficult to summarize Indian opinion. The most noteworthy feature is that all sections, whether so-called moderate or extreme, press for a further immediate advance, and that none is willing to accept the declaration in *paragraph 289* of the Report that its authors have carried the advance right up the line beyond which their principles forbid them to go. It is urged that the Government of India should be popularized on the lines proposed for the Provincial Governments, that provision should be made for the appointment of more Indian members to the Governor-General's Council, and that at least a begin-

ning should be made in handing over some of the departments of the Government of India to ministers chosen from the Legislative Assembly. The Council of State is condemned as a device for defeating the popular will, and as a mere tool in the hands of the Executive Government. The dual system of Government proposed for the provinces is generally accepted as suitable, though there is a strong demand that the list of transferred subjects should be increased at the outset, and the general view seems to be held that all departments, except law, justice and police, should be transferred to ministers and the balance within a short space of time. Several persons claim that "police," if reserved, should be placed in the charge of the Indian Member of Council, and that the separation of judicial and executive functions should form part of the Reforms. It is also urged that the future advance should be more rapid than is contemplated, and that the first periodic Commission of Enquiry should be appointed after an interval of five years. There is general complaint of the excessive powers reserved to the Executive, and a demand that resolutions of the Legislative Council should be made binding on the Government, either absolutely or subject to conditions. The procedure in regard to the certification of Bills relating to reserved subjects, and their reference to grand committees is generally opposed as cumbrous and irritating to the Legislative Council, and likely to bring unpopularity on the Governor. Some propose a second Chamber as a substitute. Objections are also raised to the proposed procedure in connection with the budget, on the ground that it is unfair that the reserved subjects should receive preference, and that the odium of proposing new taxation should be thrown on the ministers. It is suggested that the budget should be settled by the Government as a whole, the power of the Governor to retain allotments for reserved subjects being limited or abolished. Other recommendations are that the Indianization of the Services should proceed at a more rapid rate than is contemplated, and that the proportion of posts in the Indian Civil Service to be recruited in India should be raised at once to 40 or 50 per cent.

6. The subject of communal and special electorates has attracted much attention. While the theoretical objections to their continuance are admitted, the general view of all sections, official and non-official, European and Indian, is markedly in favour of their retention, on the ground that in no other way could certain important interests secure a place in the new Councils. The Muhammadans strongly urge that they should be given communal representation, whether they are in a minority or not, and it is evident that they would regard any other treatment as a breach of faith. The Muhammadan opinions are remarkable for the insistence with which they urge the necessity for special provision in this respect, not only in the Councils, but also on standing and grand committees and similar bodies, as also in the Public Services.

7. Finally, as regards the voicing of "Indian public opinion" as a whole, it is to be remarked that the phrase is used in the sense indicated in the concluding passages of *paragraph 4* of the Report, namely, as the opinion of that section only which can gain a hearing within the usual methods of political debate. It is not the opinion of the country as a whole, or even, in any way, of the majority; whatever the weight to be attached to it (and that it carries weight is not disputed), it is the

opinion of the educated minority. Apart from it stands the opinion of the illiterate millions, doubtless not capable, as stated in the Report, of holding an opinion on the subjects with which it deals, but certainly capable of holding an opinion as to the effects upon their daily life of changes in the machinery of Government which they no less feel, even if the underlying causes are little understood.

8. Leaving, with this necessarily cursory analysis, the important bearing on the whole subject of public opinion of all shades, which, in practical effect, will mainly make itself heard through other channels open to it, the Governor in Council will now turn to the expression of his own views, but before doing so he would explain that what follows is written on the assumption that the general question of the grant to the members of the Legislative Council of some form of control over a portion of the administration is no longer an open question, and moreover that the immediate steps in that direction must follow the main principles of the scheme embodied in the Report (namely, the division of the functions of Government between persons chosen by different methods and looking for their authority to different sources), outside which it is not permissible to travel. In other words, he takes the framework of the scheme as presented to him, and confines his remarks to those aspects of it which seem to him to be particularly open to comment. The object finally in view is common ground, and while differences of opinion may exist as to the method of approaching it, or again as to the expedient rate of progress yet it is recognized that, at the stage now reached, the Government of India are practically committed to the general lines proposed in the Report, subject only to modifications of detail. But even within these limits, the opinion of the local Government must be regarded as provisional, in so far as it is formed in the absence of the important data which will not be available until the two subsequent Committees have reported on the questions of the franchise and the transferred subjects, which, in fact, comprise the essence of the whole plan of advance.

9. As desired in your letter, the detailed proposals will now be discussed so far as possible, in the order in which they appear in those paragraphs only of the Report which have so far been referred for consideration, such slight re-arrangement only being made as may conduce to brevity and clearness.

FUNCTIONS OF THE GOVERNOR.

10. *Paragraph 219.*—It will be convenient to begin by reviewing the duties and responsibilities which will devolve upon the Governor under the future administration. The whole responsibility for efficiency will fall ultimately on his shoulders, and his task will indeed be a formidable one :—

(*a*) He is not bound to accept the decisions of his ministers, but he is to meet their wishes to the furthest possible extent in cases where he realizes that they have the support of popular opinion. He is to be generally responsible, but only to refuse assent if the consequences of acquiescence would clearly be serious. He is not to accept proposals which are the result of inexperience, but he is not to be in a position

to refuse assent at discretion. Lastly, he is to be guided by a hitherto undrafted Instrument of Instructions (*paragraph 219*).

(*b*) He is to exercise a discretion as to appointing official advisers as Members without a portfolio (*paragraph 220*).

(*c*) He is to decide if his ministers and Executive Council differ on overlapping subjects, *e.g.*, the budget (though there may be many others) (*paragraph 221*).

(*d*) He is to decide if there is a dispute as to whether a question falls within the reserved or transferred category (*paragraph 239*).

(*e*) He is to certify Bills for grand committee (*paragraph 252*).

(*f*) He is to certify if a clause of a Bill dealing with a transferred subject impinges on a reserved subject (*paragraph 254*).

(*g*) He can dissolve his council as a means of control (*paragraph 254*).

(*h*) He can refuse assent to a Bill or return it for reconsideration of particular provisions (*paragraph 254*).

(*i*) He can certify as to the necessary financial provision for reserved subjects (*paragraph 256*).

Under the scheme as drawn up there is no other authority which could undertake these heavy responsibilities, and the substitution of the joint assent of the Governor in Council for the personal order of the Governor would only render more complicated the smooth working of the machine; but the prominence thus given to the capacity of one individual has an important bearing on various aspects of the proposals, more especially on the desirability of strengthening his hands in every way that may be feasible, *e.g.*, by placing at his disposal in his Executive Council a larger element of local official experience than is at present contemplated.

ADDITIONAL MEMBERS OF THE EXECUTIVE COUNCIL.

11. *Paragraph 220.*—The method followed in the Report in order to achieve this result is to admit to the Executive Council one or two additional official members without portfolios for the purposes of consultation only. The opinions received are almost unanimously adverse to this suggestion, though doubtless not for altogether similar reasons. The important point is the admission that the Governor will be in need of more official advice than will be afforded by one member of the Indian Civil Service among a Council consisting of another Indian non-official member and the non-official ministers, who will almost certainly be Indians and of whom there are likely to be at least two in the case of this Presidency. But the procedure of the Report may have precisely the opposite effect to that intended. The additional official member or members, would almost necessarily be taken from the senior officers at headquarters, *e.g.*, in Bengal, the Member of the Board of Revenue or the Commissioner of the Presidency Division. Though suited to their substantive appointments, it does not follow that these officers will necessarily possess the qualifications required in a member of the Executive Council, while the fact that they may be senior in service to the official member presents an obvious possibility of friction, with the

consequence that the weight of official advice would be weakened rather than strengthened. If, on the other hand, the additional official members were regarded as in the running for the permanent official seat, their position *vis a vis* the Governor, with whom their ultimate selection would practically lie, would be most difficult. In any case, the additional official members would never be in constant touch with the local Government and cognizant of its inner workings and difficulties. They would see isolated cases only, and advise on them with no real sense of responsibility, and possibly under the influence of varied motives.

12. Nevertheless, the Governor in Council fully appreciates the force of the difficulty, which the authors of the Report seem to have felt, that a Council with a solitary official member would not possess a sufficient element of steadying administrative experience, particularly when the Governor himself had no previous knowledge of Indian conditions. A single official member would often find it difficult to press the administrative point of view, more particularly in connection with portfolios outside his personal charge, and his advice would be constantly overborne by the cumulative weight of that tendered by the Indian member of Council and of the Indian ministers. The force of the majority in deliberative consultation is bound to make itself felt, and in practice there would be every likelihood of the views of Indian ministers prevailing against the advice of the single official, who would be represented as an obstructive and reactionary bureaucrat. In these circumstances, there would be a serious danger of the Government committing itself to a course of action in important matters without adequate realization of the administrative difficulties involved. If, as is practically conceded, it is necessary to strengthen the official element in the Council, the local Government can see no satisfactory means of so doing otherwise than by including in it two official members, at any rate in the three Presidencies and during the earlier years of the transitional period, when the great majority of the Indians available as members or ministers will be lacking in administrative experience. The obvious criticism to such an addition is that it will render top-heavy the administration at head-quarters, but apart from the reasons already stated by which the proposal can be justified on its merits, it is to be borne in mind that the Reforms will throw an increasing burden on the individuals comprising the Government. The meetings of both the Executive and Legislative Councils will be more frequent and more lengthy than at present, while standing committees will absorb much time, besides greatly increasing the actual labour involved in bringing important administrative projects to fruition. At present, the members of Government are, even still, primarily administrators and secondarily politicians; if in future their political activities are to equal, if not outweigh, the duty of supervising the departments made over to them, a good case for their relief exists even at the cost of added numbers.

THE WORKING OF THE EXECUTIVE GOVERNMENT.

13. *Paragraphs 221 and 222.*—During the earlier stages of the elaboration of the idea of a dyarchy, or in other words of a Government divided into reserved subjects in charge of official members, and transferred subjects entrusted to non-official ministers, much stress was laid on

the desirability of making the two brances of the Executive distinct and independent of one another. Otherwise it was said the responsibility of ministers for the transferred subjects would be unreal, while no proper training for future self-government or test of the capacity of Indians for responsibility would be afforded. The argument is logical and consistent with the theory of a dualistic form of government covering a period of training in the less important matters, pending the making over to non-official hands of the more important subjects, with which, immediately, they cannot, *ex-hypothesi* be safely charged, but whatever the internal distribution of its functions His Excellency in Council thinks it preferable to attempt to maintain the outward unity of the Government, as one body, presided over by one head. Even granted the obvious risks of dissension between the two branches of the Executive, it is desirable that the Government of the province should not appear in public as a house divided against itself. The position of the Services which carry out the policy and orders of Government, would be clearly rendered much more difficult if orders were issued by two admittedly distinct authorities, and, moreover, if the two Executives were absolutely separated, neither would have the chance of learning the other's point of view. The gulf which exists between officials and non-officials in the Legislative Council would be carried into the Executive Government and would tend to become wider. Experience has shown that the close association and exchange of views which have resulted from the appointment of Indians to the Executive Council have done much to promote a better understanding between them and their official colleagues, and it may be hoped that similar results will be obtained under the scheme proposed in the Report. In other countries, violent critics have been known to change their views, when called upon to share the responsibilities of Government. But in one respect, either accidentally or by design the scheme set forth in the Report goes too far. It is suggested in *paragraph 221* that, *as a general rule*, the Government should deliberate as a whole. This may easily be interpreted to mean that the habit of associated deliberation between members and ministers should be the normal course in regard to all matters except those of minor importance. Any such procedure, besides being fatal to efficiency and promptness in the despatch of business, would tend to obscure the responsibility of members and ministers to a most undesirable extent, while giving to the latter a power of interference in respect of reserved subjects, which on the fundamental principles of the system, they were not intended to exercise. Cases of routine or minor importance must, as under the existing system, be disposed of by the member or minister in charge of the department, but even where a member or minister refers a case to the Governor, it should be made perfectly clear that the latter has the fullest discretion either to dispose of it forthwith, or to circulate it to his colleagues for opinion, and in the event of circulation, to decide whether it should be sent to both members and ministers. The normal rule should be that unless the Governor definitely desires the opinion of both branches of the Executive Government (and it is not denied that such instances may unobjectionably arise, *e.g.*, by reason of the joint interests of all being involved), cases relating to reserved subjects should be circulated only to members, and cases relating to transferred subjects only to ministers. The point is of importance, since the habit of associated deliberation, once started

and applied indiscriminately, will come to be regarded as a custom, departure from which will be resented as a grievance and voiced as such. Again it is impossible to claim official responsibility for the reserved subjects if all important questions relating to them are to be debated in a Council in which, according to the Report, the official member would be in a minority of one among four (excluding the Governor) or, even under the proposal of this Government, of two among five. It is recognized that the Report relegates the voting to members or ministers respectively, but it has already been remarked that in any deliberative body the influence of the majority will inevitably tell.

Parliamentary Under-Secretaries.

14. *Paragraph 224.*—The proposal for the appointment of members of the Legislative Council to positions analogous to that of Parliamentary Under-Secretaries in Great Britain does not appear to be practicable at the present stage. The Under-Secretary would presumably be selected from among the members of the standing committee attached to the department concerned, but unless given a definite position in the Secretariat, he would be unable to render any material assistance to the Member in charge, while his introduction into the Secretariat would only complicate matters in a situation which will already be sufficiently difficult. Moreover, the member selected would be primarily concerned with his constituents and might find his connection with Government embarrassing. The proposal seems necessary in India, where the function of the English Parliamentary Under-Secretaries in relieving their chiefs of some of their parliamentary work is discharged by the official Secretaries, whose prototypes in England do not sit in Parliament.

Composition of the Councils and special electorates.

15. *Paragraphs 225—232.*—The Governor in Council recognizes that the principle of an enlarged Council with a substantial majority elected by a direct vote is an integral part of the whole Reforms Scheme; material is being prepared for submission to the Franchise Committee, and at the present stage His Excellency in Council will refrain from expressing any opinion on matters of detail, and will confine himself to the larger issues of communal and special electorates. Theoretically, it would no doubt be advantageous to have general electorates only, and the objections urged in the Report to communal representation are just, but it is necessary to deal with the country as it is, not as it ought to be. Concessions have been made to Muhammadans from which it is impossible to withdraw without their consent, and they have made it clear that they do not consent, even to the proposal in *paragraph 231* of the Report, that communal electorates should be retained only in those provinces where the Muhammadans form a minority of the voters. In Bengal, owing to the predominance of Hindu landlords and money-lenders in districts where the bulk of the population are Muhammadans, the latter have every reason for apprehending that their interests will not be duly safeguarded even where they are in a numerical majority. In the matter of other classes, the main question is whether there are important and distinct interests in the country, which, in existing conditions, cannot secure adequate representation under an elective system,

unless given a special electorate; and as it is recognized in the Report that this question can only be answered in the affirmative, the Governor in Council thinks it useless to contest the obvious corollary. The main considerations governing the problem, in so far as they are descriptive of prevailing Indian conditions, have frequently been set forth at length, noticeably in connection with the enlargement of the Legislative Councils in 1892 and 1909, and since they have not materially changed subsequently, the local Government now refrain from recapitulating them. They would not, however, have it thought that the brevity of their remarks is indicative of the slight importance attached to the point. On the contrary, they would regard the adoption of any other solution as a fatal error. Even taking the main argument of the Report that the unity of the political development of the country should not be jeopardized by the perpetuation of class divisions, it is arguable that the members of the future Legislative Councils will devote their efforts towards the common welfare with great harmony and mutual co-operation if they derive their authority from electorates with which, in essentials, they are in sympathy, in place of entering the Council Chamber after a struggle between voters of rival communities, with all the bitterness which these contests tend to engender.

16. On these grounds, the local Government would favour special electorates in Bengal for the following classes:—

(1) Muhammadans.
(2) Large landholders.
(3) Europeans.
(4) Anglo-Indians.
(5) The planting interest.
(6) The mining interest.
(7) The Chamber of Commerce.
(8) The University.
(9) Indian Christians.
(10) Indian Commerce.

In the case of the two latter, it may be difficult immediately to form a suitable electorate, and if so, it would be necessary to provide for their representation by nomination, but the general principle should be that of resort to nomination only when no suitable electorate can be created. The proposal in *paragraph* 232 of the Report that nomination should be resorted to in the case of the general European community seems particularly unjustifiable. This class, more than any other, may be presumed to have a vested right to elect its own representatives, and the formation of a suitable electorate should not present insuperable difficulties. It is true that under any such scheme the backward castes and the purely agricultural element will have to take their chances of representation in the general electorates, where it is more than likely that the higher castes and the legal profession will continue to prevail, but short of an unending series of sub-divisions this result is unavoidable, and the adequate representation of the rural vote will presumably be a matter for special consideration by the Franchise Committee.

17. The Governor in Council would further suggest that a certain number of seats should be reserved, as at present, to which experts might be appointed at the discretion of the Governor, as experience has

shown their utility (which will be enhanced with the reduction of the official *bloc*) more especially in connection with measures of a technical character. He would further press, at any rate during the earlier years of the probationary period, for power to nominate a few non-officials whose services would be useful in the Council, but who would be unlikely to stand for election in any electorate that may be set up. Unwillingness to seek election may disappear in course of time, but as things stand, there are certain types of men whom it is desirable to have in the Council, but whose services could not be secured otherwise than by nomination.

OFFICIAL MEMBERS OF THE LEGISLATIVE COUNCIL.

18. *Paragraph 233.*—If the principle is to be literally observed that the official element in the Council should be no larger than is necessary for the transaction of Government business, the official members in the Bengal Legislative Council would amount at most to 15 and would probably be less, but from this fact a consequence will ensue which merits attention. If select committees are to increase in size *pari passu* with the enlargement of the Legislative Council, and if, at the same time, a Government majority is to be retained on select committees dealing with Bills touching reserved subjects, considerable practical difficulty will arise in securing the attendance of the necessary number of officials. Moreover under the present system, a select committee is in some measure a microcosm of the Legislative Council, and if this practice is to continue, Government as represented by the official element, must necessarily always be in a considerable minority on every select committee. It is not clear how these difficulties can be got over, but they will add materially to the obstacles in the way of passing what may be described as Government legislation in a form acceptable to the Government.

19. With regard to the theory that the nominated official members of the Legislative Councils should have freedom of speech and vote, except on occasions when the Government think it necessary to require their support, it is exceedingly doubtful whether, in practice, opportunities for such relaxation can be frequent. Ordinarily in regard to matters coming before the Legislative Council, the local Government take a line which they consider correct, and to which they attach importance. To allow official members freedom of speech and vote in such cases would result in presenting to the Council and the public the highly undesirable spectacle of the officers of Government in open disagreement with the authority which they serve, since there would obviously be no point in allowing freedom of speech and vote except in cases where those affected were not in agreement with the Government. The desirability of a united front in the local Government itself is recognised in the Report, and it seems no less desirable that the officers of Government should be of one voice in the Council, except in the comparatively rare cases in which the Government is content to leave its own attitude an open question.

DESIGNATION OF MEMBERS OF THE LEGISLATIVE COUNCIL.

20. *Paragraph 234.*—The Governor in Council accepts as suitable the proposals regarding the designation of members of the future Legislative Councils.

STANDING COMMITTEES.

21. *Paragraph 235.*—Subject to the following remarks, the Governor in Council agrees generally with the proposals regarding standing committees. They will to some extent hamper and delay the execution of public business, but they will be useful during the transitional period for two purposes :—

(*i*) as associating members of the Legislative Council with that part of the Executive Government which will not be responsible to the legislature; and

(*ii*) as affording opportunities for giving members of the Legislative Council an insight into the machinery of Executive Government and a training in the art of administration.

For the first purpose, it is true that it would not be equally necessary to attach standing committees to the departments dealing with transferred subjects, but the second argument holds good in their case also, and the local Government would not differentiate between the two branches. The device, however, should be regarded as purely temporary in character, for use during the transitional period only, and it should be stipulated that it will be abandoned on the introduction of complete responsible government.

22. There are, moreover, certain subjects which cannot suitably be dealt with by standing committees, such as Finance (except in its budget aspect, on similar lines to those at present followed), various political questions and personal appointments generally. The reasons for excluding the two subjects last mentioned are fairly obvious, but a Finance Committee dealing in frequent session with all proposals for expenditure, would seriously impede the discharge of business, while tending to become a super-committee controlling all branches of the administration. It is suggested that it should be left to the local Government to decide to which departments committees should be attached; also the manner in which the work should be distributed among such committees as may be formed. Another point which the local Government regard as important is that the Governor should have power to declare a case to be secret, and that on its being so certified, it should be withheld from the purview of the committee. This definite provision is necessary in addition to the proposal in the Report that it should be open to the Government to refuse information when it would be inconsistent with the public interest to furnish it to the committee.

23. The Governor in Council does not think it would be practicable to lay down, as suggested in the Report, that the moving of resolutions by members of standing committees must be subject to the obligation of respecting confidence. It would be impossible to prevent the use in Council of information which had been obtained in committee, and the situation must be accepted as one of the drawbacks of the procedure, though it adds force to the contention that such committees should be regarded merely as a temporary expedient.

EFFECT OF RESOLUTIONS.

24. *Paragraph 237.*—His Excellency in Council fully agrees that resolutions, whether on reserved or transferred subjects, should not be binding on Government, but it should not be overlooked that there is

considerable danger that in a legislature with a large non-official majority, the time of the Council will be unduly occupied with resolutions moved by private members; and that private members, finding that their resolutions, though passed by the Council, are not accepted by the Government, will seek to impose their wishes on Government by means of legislation. The impropriety of interference by a deliberative assembly in administrative detail is emphasized in *paragraph 168* of the Report, and judging by the character of certain resolutions in the past, the attempt is almost certain to be made. In England, the Government is protected against this risk by the rule of the House of Commons which strictly limits the time available to private members for moving resolutions on matters of general public interest and for carrying through private legislation. Similar powers will be necessary here if the time of the Council is not to be wasted, and its capacity for useful work limited by the activities of comparatively irresponsible private members. It is unnecessary to consider here the precise regulations which would be required, but His Excellency in Council would urge that the principle of limiting the time available to private members should be recognized; otherwise, it will be said hereafter that the Councils have failed to fulfil the intention of their creators. Once the principle is accepted, there should be no great difficulty in working out a sessional programme which would admit of its application.

DIVISION OF THE FUNCTIONS OF GOVERNMENT.

25. *Paragraphs. 238—246.*—Proposals on this subject are being prepared for submission to the Committee which is to be appointed to consider the matter, and while reiterating the fundamental importance of the matter, it is not proposed to pursue it further here.

LEGISLATION.

26. *Paragraphs 247—254.*—In considering the question of legislation, a reference may well be made to what is said in *paragraph 167* of the Report concerning the Congress-League scheme, and the quotation is not without its appositeness to the possible enactment by a Bill of what has failed to gain the acceptance of Government on a resolution :—

> "If the Government is to be carried on, legislature and executive must in essentials be in harmony. Legislation is a necessary attribute of Government, because it is the means by which Government secures fresh powers when it feels the need of them for attaining its ends. But in the hands of the assembly it may become a weapon to paralyse the Government. Whenever the legislature distrusts the executive it can always restrain or control its activities by specific provisions inserted in an Act. There is no clear line between administrative and executive functions, and it would be perfectly open to an assembly which distrusted its executive practically to assume charge of the administration, and as Lord Bryce* says, to reduce its Government to the position of a bank staff *vis a vis* the directors.

*The American Commonwealth, Chapter XXI.

That is a position into which no parliamentary government ever allows itself to be forced; and it would be an impossible position for a nominated Government in India.

27. His Excellency in Council entirely agrees with these views, but he entertains grave apprehensions that the plan propounded in the Report for carrying legislation relating to reserved subjects by means of grand committees will not suffice to prevent the embittered and dangerous deadlock which the authors of the Report foresaw as the only possible result of the Congress-League scheme. The procedure of grand committees is obviously cumbrous and dilatory, and, as stated in the Report, offers a premium to obstructive tactics. Moreover it will be most uncertain in its operation. In the first place, there will be a natural reluctance on the part of a Governor to certify a Bill for reference to a grand committee. Apart from the verbal limitations within which the right is to be exerciseable, literal compliance with which, even in matters of grave importance, may often be difficult, it would always be possible to represent that it is unfair to adjudge the Council as unreasonable without a trial, though it would be still less easy (to say nothing of the delay involved) to resort to certification after an effort to pass a satisfactory Bill by the normal procedure had proved abortive. It is further indicated in the Report that the procedure must be treated as exceptional, and the Governor is apparently to be instructed that he is not to use it without strong and definite reasons, which are to be specified. Even without such instructions, certification is a procedure, to which no Governor would resort except on rare occasions. Certification is, in fact, akin to the veto, which as observed in *paragraph 171* of the Report, is not an instrument of Government and is tolerable only when it is rarely used, and does not become obtrusive. No Government can seek to impose its will on the legislative assembly by means of exceptional measures of this character without running the risk of encountering deliberate and obstructive opposition by way of retort. In that case, more harm might be done to the interests of sound administration by certification than by the abandonment of the legislative proposals which gave rise to the trouble, and Government would be presented with a choice of two serious evils.

28. In the second place, the grand committee, even when invoked, would not necessarily be an effective instrument. This fact is admitted in the Report, but it is observed that the Executive Government has no absolute guarantee at present of carrying its measures through the Council. Theoretically, especially in Bengal, this is true, but on the present distribution of interests in the Council, the fact remains (and is, indeed, one reason of the demand for the concession of further control) that Government, despite occasional difficulties, has, in practice, been able to obtain its way in most matters of vital importance. In the enlarged Councils contemplated, even with the device of grand committees, the position of the Executive will be very much weaker. Government will be able only to count on one-third of the votes in grand committee, and its power of nominating another sixth is to be used partly so as to ensure the proper representation of all interests; it cannot therefore be confined to the selection of absolutely reliable adherents, even if they could be guaranteed. Experience has shown that under the existing

system, the nominated members of Council frequently vote with the elected members, and this tendency will be strengthened in the reformed Councils, at any rate in regard to matters such as those which will be referred to grand committees, and on which *ex hypothesi*, the views of Government and of the majority of the Council will be directly antagonistic. The Governor in Council is driven to the conclusion, therefore, that the safeguard of a grand committee is largely illusory, but he recognizes, that other alternatives are open to even stronger objection, and he has little option but to accept it as the least of various evils, though he is far from confident that it will give Government the powers essential to the proper discharge of its primary responsibilities.

29. The further proposal to give the Governor of a province power to dissolve his Legislative Council might be useful on rare occasions, and as such should find a place in the Reforms Scheme, but it is no real safeguard, and would be more likely than not to intesify agitation against Government and its measures. The official members could not undertake electioneering activities, and a general election with one side only in the field, and that side exasperated by a dissolution, could hardly be expected to result in a decision which to the other side (in this instance, the Government) would be acceptable as sound.

30. In connection with the proposal that the Governor's discretionary power of assenting to a Bill should include a power to return the measure for the reconsideration of particular provisions in it, the local Government would urge that the Governor should be given the further power of approving a Bill as a whole, subject to the veto of particular clauses. It is recognized that theoretical objections may be raised to this course, but the conditions are peculiar in view of the hopeless minority of the official *bloc*, and the power to remit individual provisions for reconsideration is not a certain solution of a difficulty which might well arise, if the larger part of a Bill were highly desirable and necessary, and a small part open to serious objection which there was no hope of getting the Legislative Council to admit.

BUDGET PROCEDURE.

31. *Paragraphs 255—257.*—The question of the control to be exercised by the legislature, over Finance is the most difficult, and perhaps the most important, of those raised in connection with the Reforms Scheme. As stated in *paragraph 165* of the Report:—

> "Finance is the vehicle of Government; and unless the executive can raise money for its needs and lay it out as it pleases, it cannot continue responsible for the administration. The power to refuse a vote, or to refuse to grant the resources required for it, paralyses the Government's hands."

In view of this observation, the Governor in Council cannot but regard with the gravest misgivings the large powers with which it is proposed to invest the Legislative Council in the matter of Finance. These powers are much more extensive than those exercised by the House of Commons. In dealing with the proposal of the authors of the Congress-League scheme that the legislature should be given

complete control over the provincial finances, it is observed in *paragraph 165* of the Report:—

"It may be that constitutional practice elsewhere has not been fully appreciated. In England it is a well established rule that the Government only can propose fresh expenditure: no amendment can be moved to increase a grant or alter its destination. Initiative lies with the Government. The House makes very little use of its undoubted power to reject or reduce the amounts asked for: it supervises rather than directs finance; and the utility of the debates on the Estimates lies in securing publicity and criticism rather than in actually controlling expenditure."

It is difficult to appreciate why, in the face of the English precedent and the further remarks in *paragraphs 168—171* of the Report on the effect of resolutions passed by the House of Commons, it is proposed to make budget resolutions passed by provincial legislative assemblies in India binding on the Executive Government, subject only to the power of the Governor to retain the original allotment for reserved subjects by certifying that it is necessary in order to enable him to discharge his responsibilities. The objections to certification in the matter of legisla ti o have already been mentioned. They are stronger in regard to Finance, since financial certification is likely in a peculiar degree to provoke retaliation, and there are many objects which though of pressing necessity in many ways could not be brought within the four corners of the certifying conditions. What is "essential for the discharge of responsibility for reserved subjects" is not easily defined in many instances; in this country there are many reforms overdue for lack of funds; it will be simple to argue that, as the province has got on without them for so long, their execution in a particular year cannot be described as "essential." The existing Councils show an ever-increasing tendency to attempt to divert provision from administrative necessities to more popular objects, and under the scheme proposed this tendency will become irresistible. It is recognized in the Report that the Governor in Council must be empowered to obtain the supply which he declares to be necessary for the discharge of his responsibilities, but certification will not enable him to do this without exposing him to the worse evils of systematic obstruction which will render Government impossible.

32. The Governor in Council would strongly urge that from the point of view of the future also, it is fundamentally unsound to give the legislature these wide powers over Finance. He would recommend that, during the transitional period, in respect of that portion of the budget which is concerned with reserved subjects, the powers of the legislature should be limited to moving resolutions, which should have the effect of recommendations only, as is the case at present; and in respect of that portion of the budget which is concerned with transferred subjects, that the legislature should have the powers of the House of Commons and no more. In this way only can a sound system of finance be built up in readiness for the introduction of full responsible government. Even given this alteration, the path of the Executive Council in obtaining provision for its departmental needs will be anything but smooth, and the

division of the funds available is likely to be a constant source of disagreement and friction. It is impossible to see how this can be avoided under any system of dyarchy, but at least its ill effects can be mitigated.

33. It will be convenient at this point to consider the question of the responsibility of ministers and members of the Legislative Council during the transitional period. The point is of particular importance in connection with Finance, and the word seems to be used in different parts of the Report with differing significations. In *paragraph 215* of the Report responsibility is spoken of as "consisting, primarily, in amenability to constituents, and in the second place, in amenability to an assembly." But responsibility to constituents pre-supposes an electorate fully qualified to discharge its functions, and a clear and direct connection between the person elected (should he remain ever a simple member or should he advance to the rank of minister) and those who elected him. But on the showing of the Report itself (*cf.*, *inter alia, paragraphs 45, 83, 132-4, 136, 153, 155, 173, 189 and 263)* no such electorates exist at present, and though lists of voting names can be compiled, the qualities making for an efficient electorate can only be developed in time. But even when a responsible electorate is to be found, yet so long as a dual Executive remains, with its necessarily divided control over Finance in particular, it will always be possible for a member (or minister) to cast on to other shoulders the blame for anything with which his constituents may disagree. Practically, therefore, a member (whether viewed as such or as an embryo minister) until such time as the voter fully grasps the meaning and potentialities of his vote, will sit as a person chosen by a particular procedure but scarcely responsible to any one outside the Council; responsibility, in short, can scarcely be derived from an irresponsible source. To that extent the contention of the Report, as quoted in the margin, scarcely appears to the Governor in Council to be sound.

"By the device, however, of appointing the ministers from the elected members of Legislative Council and making their tenure of office conditional on their retention of their seats, we have established at once some measure of responsibility to their constituents, and have thus put an end to the condition of affairs in which those entrusted with the administration are wholly irresponsible to the constituents who elect the Legislative Council."—(*Paragraph 222.*

There remains the question of responsibility of a minister to the Legislative Council (in this connection the case of the simple member may be disregarded), and during the first transitional period it is clearly stated *(paragraph 218)* that they will not hold office at the will of the legislature. His Excellency in Council finds it difficult to accept this interpretation of the position of the minister. The legislature are specifically given the power of refusing him the supply for which he asks. In other words, the legislature can compel a minister to accept their decision or in the alternative to resign. This is precisely what is meant by the word responsibility when used of the relations between a Government and a legislative assembly; and it appears to His Excellency in Council that there is nothing to be gained by any attempt to disguise the fact that provided that the legislature is given the power above referred to the minister will necessarily be responsible to it.

34. It is stated in *paragraph 256* of the Report that if the revenue available for the transferred subjects is insufficient, the question of new taxation will be decided by the Governor and the ministers. It is presumed that it is not intended that proposals for new taxation should be made in the Legislative Council without the consent of the Executive Council being first obtained. From the standpoint merely of law and order, the Executive Council might be vitally interested in proposals for fresh taxation.

35. Another point in connection with Finance, which may conveniently be considered here, is the control to be exercised by the Government of India over expenditure on transferred subjects. It would appear from *paragraph 213* of the Report that no general relaxation is contemplated of the financial control at present exercised by the Government of India and the Secretary of State over expenditure on the reserved subjects, but it would be illogical to relax control in respect of transferred subjects, over which the superior control will *ex hypothesi* be less experienced. It is however stated in *paragraph 219* of the Report that on transferred subjects, the decisions of ministers will be final, subject only to the Governor's advice and control, and if ministers are to be subject to the ordinary code rules and have to refer to the Government of India in respect of matters beyond their financial powers, they will certainly urge that their responsibility is impaired. It is, however, equally certain that over details of this kind, the Legislative Gouncil will exercise no effective supervision. It is moreover not clear whether the schemes of ministers are to be submitted to the Financial Department of the local Government for examination and criticism in accordance with the accepted standards and criteria, which rest partly on the financial codes and partly on practice. If these are not applicable to provincial finance as a whole, there will be confusion; if the Finance Member is always criticising the minister on technical details, there will be friction.

The Report is also silent about reappropriations during the year. These are frequent and inevitable, and it will be necessary to provide some authority to decide how they should be dealt with. If savings on transferred subjects are to be devoted to other transferred subjects, and those on reserved to other reserved subjects, the utilization of the provincial resources to the best advantage during the year will be seriously impeded.

36. These subjects are mentioned as requiring consideration and clear definition, and it is difficult to express a final opinion pending some further indication of the intention regarding the extent of financial independence to be given to ministers. On the principle, however, that unity should be maintained as far as possible between both branches of the Executive Government, His Excellency in Council is of opinion that a single Financial Department should be maintained to serve both Executives, and the same code rules and restrictions should be made applicable to both.

Future developments.

37. *Paragraphs 260—264.*—The Governor in Council doubts the advisability of inviting the Legislative Councils to demand increased powers after five years' trial, which seems contrary to the principle of

cautious development in the light of experience. The test of efficiency which can be applied within so short a period will be slight, and it will be largely a matter of accident whether it would appear unduly favourable or unduly favourable to the ministers and the council. It is recognized that responsible electorates will not have come into existence by that time, and it would be premature to make any further material advance until they begin to make their influence felt. Even now the interpretations being placed in some quarters on the appropriate scope of the transfer of subjects bids fair to destroy all idea of a period of probation and advance as judged by the results, and the refusal of impossible demands after so brief an interval will only resuscitate the original discontent.

It is moreover not clear why it should be made optional with the Government of India to direct that ministers' salaries at the end of the five years' period should be specifically voted by the Legislative Council, while simultaneously power is given to the Council to demand this step. The latter proposal is contrary to the principle that future progress is to be decided by outside authority.

THE GOVERNMENT OF INDIA.

38 *Paragraphs 265—289.*—The Governor in Council does not propose to offer any detailed suggestions on the proposals which affect the Government of India, but he would reiterate his opinion that while changes are being made in the provinces, care should be taken not to weaken unduly the hands of the Imperial Government. He is not sure that this will not be the effect of the proposal in *paragraph 271* of the Report to abolish the existing statutory restrictions in respect of the appointment of members of the Governor-General's Council, and he would deprecate any alteration in the existing provision of law which makes it necessary that at least half the ordinary members of the Council shall be persons who at the time of their appointment shall have been for at least ten years in the service of the Crown in India.

39. The constitution of the Council of State as proposed in *paragraph 277* of the Report seems unnecessarily intricate, and as an official majority is avowedly necessary, it seems unwise, merely as a matter of practical working, to limit the official votes to a bare 50 per cent. It will moreover be impossible to secure Muhammadans and landed members representative of the whole of India. These details, however, appertain at the moment rather to the province of the Franchise Committee.

40. Unless the objects which standing committees are intended to serve have been entirely misunderstood, the Governor in Council fails to see how they can be formed in connection with the Government of India with any prospect of rendering useful service. It will be difficult enough even in the provinces to secure for these bodies the services of members residing outside the provincial capital, and in the case of the Government of India it would seem quite impracticable to convene them at any sufficiently frequent intervals to allow of their influence becoming appreciable.

THE INDIA OFFICE.

41. *Paragraphs 290—295.*—The local Government has little direct knowledge of that part of the machinery of administration which works

in London and feels, therefore, that it cannot usefully discuss the proposals concerning it.

The Public Services.

42. It is understood that further opportunities will be given for considering the position of individual Services under the Reforms Scheme, but the Governor in Council desires to conclude with one observation regarding the Public Services generally. In the Report,* the continued presence in India of the best type of European official is postulated as most requisite, but it seems certain that the changes contemplated must tend towards the rapid disappearance of European official agency. The Governor in Council does not regard this as an insuperable objection, according as it is effected gradually, in proportion to the ability of the country adequately to conduct its own affairs: on the contrary, he considers it essential that, if India is ever to be self-governing, it must employ, in the main, an Indian official agency. It seems useless, however, to obscure the issue by assuming that this consequence will not ensue, or anticipating that a political movement largely directed against a continued retention of a European Government agency will suddenly develop a contrary tendency at the time when it is grasping the power to enforce its wishes.

***Cf. inter alia, paragraphs 161, 318, 323 and 324.**

Conclusion.

43. The whole subject of the Reforms Scheme is one which lends itself to indefinite discussion, and the volume of opinions on record regarding it is already more than can be mastered without prolonged study. The Governor in Council has therefore endeavoured, within the time available to him, and the limitations explained in *paragraphs 8 and 9* above, to touch only upon the salient features of the proposals in so far as he may differ from the authors of the Report, or entertain serious doubt as to the practical working of their recommendations. It is inevitable that in these circumstances this letter should be mainly one of the criticism, as is indeed invited. The Governor in Council is fully aware that in many passages of the Report (*cf., inter alia paragraphs 144, 177, 241, 257 and 354*) the susceptibility of its contents to criticism is frankly admitted, though in the view of the local Government some of the objections that may be taken are more serious than is perhaps conceded. But apart from anticipated difficulties which there seems to be no way of solving within the four corners of the Report, and suggested modifications of secondary importance or touching matters which are not directly of provincial concern, the main points in which the Governor in Council would advocate the reconsideration of the Scheme, may be summarized as follows:—

(*a*) The strengthening of the official element in the Executive Council by the inclusion in it of another official member in preference to the device of official members without portfolios.

(*b*) A more restricted definition of the occasions upon which associated discussion between members and ministers is expedient.

(c) The abandonment of the idea of Parliamentary Under Secretaries.

(d) The retention of communal and special electorates; also of nominated expert seats and of a few non-official vacancies to be filled by nomination.

(e) The definite admission of the fact that standing committees cannot suitably be attached to all departments or be given access to "secret" papers.

(f) The acceptance of the principle that the time allotted to private members for moving private Bills and resolutions may legitimately be curtailed.

(g) The extension of the Governor's right of veto to particular clauses of a Bill.

(h) The entire modification of the scope and effect of resolutions passed in connection with the budget, having particular regard to the financial powers of the House of Commons.

(i) The consultation of the Executive Council on the subject of fresh taxation.

(j) A clearer pronouncement as to the future position of ministers, *vis a vis* the superior financial control of the Government of India and Secretary of State, as embodied now in codes and practice; also of the standing of the provincial Financial Department in regard to the acts of ministers.

(k) The retention of the statutory condition regulating the composition of the Executive Council of the Governor General now contained in section 36 (3) of the Government of India Act, 1915.

(l) The recognition of the likely result of the Reforms Scheme upon future recruitment for the European Services.

No. 2272, dated Allahabad, the 26th October 1918.

From—The Hon'ble Mr. S. P. O'DONNELL, Chief Secretary to the Government of the United Provinces,

To—The Secretary to the Government of India, Home Department.

I am directed to reply to your letter no. 950, dated the 15th July 1918, in which the Government of India ask for the views of the Lieutenant-Governor on paragraphs 212 to 295 of the report of His Excellency the Viceroy and His Majesty's Secretary of State on constitutional reforms.

2. Paragraphs 214 to 224 (provincial executives) and paragraphs 225 to 258 (provincial legislature) taken together define the structure of the provincial government proposed in the Report. The most notable feature of this is the dualism which it contemplates in the executive government. The Lieutenant-Governor returned from Burma to India too late to take part in the discussions which preceded the formulation of the scheme in the Report and the time has passed when he can usefully discuss fundamental problems of Indian policy and administration. Influential committees are on their way to advise on the essential details of an apparently accepted proposal. Taking the situation as he found it, and starting on the basis of the Report, Sir Harcourt Butler has been at some pains to ascertain provincial opinion regarding the scheme. In

July and August last, His Honour visited Meerut, Agra, Lucknow, Jhansi, Cawnpore, Allahabad, Benares and Bareilly and conferred with most of the leading men of the province. A debate of the non-official members was held in the Legislative Council on 12th August. Subsequently His Honour appointed a strong committee of officials, a copy of whose report is forwarded with this letter. Opinions were also called for from the leading associations; *viz.*, the British Indian Association, the Agra Zamindars' Association, the Upper India Chamber of Commerce, the United Provinces Chamber of Commerce, and the local branch of the Anglo-Indian Federation, the Provincial Congress Committee, the United Provinces Muslim League, and the Muslim Defence Association. Copies of the opinions so far received from these bodies are enclosed.

3. Sir Harcourt Butler has used all his influence to secure a favourable reception for the Report and, on the whole, it has been well received by those who are interested in politics—a growing but still small number in this province outside the larger towns. The prevailing attitude outside this class is one of indifference. It is in fact impossible to translate the term responsible government into any vernacular spoken in the province in a way that will convey meaning to the ordinary person. In the speech which he delivered at Meerut, on the 15th July 1918, an extract of which is attached to this letter, His Honour offered no opinion of his own but indicated three cardinal conditions of reform. He had in view evolution rather than revolution. In particular His Honour was impressed by the misgivings, which are widely entertained, on the subject of the dualism or, as it is called, dyarchy in the executive government, which the Report recommends.

4. Sir Harcourt Butler finds that so much importance is so widely attached to maintaining a unitary executive that he would accept almost any scheme of which this was a feature. The drawbacks of a dual executive have been pointed out by many. It is admitted that there must be one provincial budget for the two branches of the executive and, as the official committee point out, taxation will have to be imposed by the Government as a whole. It is admitted that subjects inter-depend and overlap: excise administration, for instance, depends largely on revenue establishments and the police. The danger of friction inherent in a dual executive are obvious. Instead of linking the popular with the official element in the government, the arrangement is calculated to set up division and even conflict between the two, which can hardly fail to be felt throughout the whole administration. This result is feared by many Indians of different shades of opinion, although many remain silent for fear lest in rejecting one part of the scheme they may lose it all. Sir Harcourt Butler finds that many Indian gentlemen whose opinion he values consider that the dual arrangement will launch them on their new career under conditions least favourable to them. Indeed the objections to dualism would seem far greater than those to the scheme set out in paragraph 217 of the Report.

5. The Committee appointed by the Lieutenant-Governor have proposed a compromise. In His Honour's opinion this would constitute a very substantial step forward to responsible government and, as urged by the signatories, is capable of further development according as experience warrants. His Honour most earnestly commends the acceptance of it or some similar scheme to the Government of India. It will have the

great advantage of starting on lines that are not wholly novel and it will give all concerned time to look round. His Honour, I am to add, is quite agreeable to the appointment of standing committees—a matter on which there was some difference of opinion in the committee. He has already appointed a standing finance committee, which is working well. His Honour is also prepared to concur in the appointment of what will correspond to parliamentary under-secretaries.

6. The Lieutenant-Governor is in general agreement with the committee as regards legislative devolution (paragraph 212) and the status of the Governor (paragraph 218). Upon this latter point provincial opinion is solid and insistent. The Governor should further, His Honour considers, have power to correspond direct with the Secretary of State on matters which are now the subject of direct correspondence between Presidency Governors and the Secretary of State. The Lieutenant-Governor agrees also with the committee as regards the appointment of additional members without portfolios (paragraph 220). He is prepared too to put forward their views as to the constitution of the Legislative Assembly and the electorate (paragraph 225). Sir Harcourt Butler fully recognizes the objection, in principle, to communal electorates; but he regards them as absolutely essential, at any rate at the present stage. The non-official members of the Legislative Council, with one dissentient, accepted the compromise of the Congress and the Muslim League and a recent committee of the Legislative Council appointed to consider legislation on the subject of district boards, has accepted the principle unanimously in connection with district board and divisional council elections. Sir Harcourt Butler is strongly in favour of giving Europeans and the domiciled community separate representation wherever this is possible. He awaits the proposals of their association on this point. His Honour is ready to uphold generally the views of the Report as regards official members of the Legislative Council and the designation of the members (paragraphs 233 and 234), but he is of opinion that officials on the Legislative Council should be allowed to vote on all subjects. His Honour also accepts the proposals of the Report regarding the control of business and effect of resolutions (paragraphs 236 and 237) subject to the provision proposed by the committee that if supplementary questions are allowed answers should not be placed on the table before they are read out in the Council.

7. As regards the division of the functions of Government (paragraph 238) His Honour is of opinion that education may best be treated as one subject and is prepared to include the whole of education in the list of transferred subjects, otherwise His Honour is ready to put forward the proposals of the committee as regards the list of provincial subjects and the list of transferred subjects. Copies of the committee's scheme, as finally approved by the Lieutenant-Governor, are enclosed for the information of the Government of India and of the two committees who will shortly be visiting the United Provinces. It will be observed that in the list of transferred subjects village courts, unclassed and some protected forests, and minor irrigation have been omitted. Village courts are part of the general civil and criminal administration which is a reserved subject. There are no forests in these provinces of the kind contemplated in illustrative list II of the Report and minor irrigation works cannot be separated from the general administration of

the Irrigation Department. On, the other hand, university education and the control of provincial services employed on transferred services have been added.

8. The Lieutenant-Governor concurs in the proposals in paragraph 239 for the settlement of disputes and those in paragraph 240 as regards the powers of intervention of the official executive government. His Honour has nothing to add to the list of reservations suggested in the latter paragraph. In regard to reserved subjects (paragraph 213) His Honour is of opinion that the Government of India must retain the statutory power now possessed by them under the Government of India Act to issue at any time such orders as they may consider desirable. This power, however, should be a reserve power to be employed only in exceptional cases, and where the administration of any subject is marked off as provincial there should normally be no interference by the Government of India. His Honour is in agreement with the committee as to the proposals that the council should have the right to request the Governor to refer to the Government of India the question whether a certified Bill deals with a reserved subject and the right to require a reference to the Government of India as regards a certificate given by the Governor to the effect that a Bill, clause or amendment trenches upon the reserved subjects (paragraphs 252 to 254). His Honour is also at the present stage prepared to agree with the committee regarding budget procedure (paragraphs 255 to 257).

9. On the assumption that the scheme of reforms outlined in paragraphs 214 to 259 will be adopted, His Honour accepts the proposals for future development contained in paragraph 260. He has, however, grave doubts as to the wisdom of appointing periodic commissions (paragraph 261). Such commissions served a useful purpose before postal and telegraphic communication between India and England was established on a modern basis : they hardly, however, appear to be the most appropriate method at the present day of determining the fitness of India from time to time for further advances in the direction of responsible self-government. The procedure of such commissions will necessarily be lengthy and cumbrous and the results as indicated by recent experience of Royal Commissions are not likely to be readily available for practical reform. The political situation in India will no doubt have to be re-surveyed from time to time and the machinery will have to be re-adjusted to new requirements, but for this purpose it is unnecessary to have recourse to a device that would seem to have outlived its utility and which is not very consonant with the dignity of India. He thinks that if this scheme of reforms is adopted, India must be left in increasing measure to look after herself as an integral part of the British Empire. The requirements of the political situation will be better estimated by authorities such as the Secretary of State and the Government of India who are in close and continual touch with the general conditions of the country than by a commission appointed *ad hoc.*

10. The Lieutenant-Governor is prepared to approve, generally, the proposals in paragraphs 271 to 289 regarding the Government of India. He holds, however, strongly, and in this he represents unanimous provincial opinion—that the United Provinces should have as many members on the Legislative Assembly of the Government of India as

the presidencies. These provinces have a larger population than the presidencies; they constitute the heart and core of India; they contain all that is most venerable to the greater masses of Hindus and Muhammadans; they are the scene of some of the greatest events in Indian history; and under the proposals of the Report they will occupy the second place in the matter of provincial contributions to Imperial revenues. His Honour sees the same objections to the appointment proposed in paragraph 288 of periodic commissions to examine and report upon the new constitution of the Government of India as have been indicated in the preceding paragraph of this letter.

11. His Honour is prepared to endorse, generally, the proposals in paragraphs 290 to 294 regarding the regulations between Parliament, the India Office, and the Government of India. The reform of the India Office, the reduction of its control over Indian administration and general devolution are eminently desirable. Sir Harcourt Butler, however, considers that if any parliamentary committee on Indian affairs is to be appointed as suggested in paragraph 295, it should be a joint committee of the Lords and the Commons; as the former House contains much experience of India; but in his opinion it would be far better to leave India to work out her own salvation. The constitution of another authority is likely to increase interference with the local Governments and to nullify, therefore, to some extent the administrative devolution upon the necessity for which the Report rightly lays stress.

12. In conclusion I am to say that the success of any scheme of reforms in India at the present day depends entirely, in Sir Harcourt Butler's experience and judgment, on the co-operation of trained officials and untrained non-officials. He does not think it necessary to elaborate this proposition.

Report of an informal committee appointed to examine and advise regarding paragraphs 212 to 259 of the Report on Indian Constitutional Reforms.

1. *Legislative Devolution.*—The Report proposes to reserve to the Government of India a general overriding power of legislation for the discharge of all functions which it may have to perform. It should be enabled, under this power, to intervene in any province for the protection and enforcement of the interests for which it is responsible, to legislate in provincial matters in respect of which uniformity of legislation is desirable for the whole of India, or for any two or more provinces, and to pass legislation which may be adopted either simpliciter, or with modifications by any province which may wish to make use of it. Subject to these reservations within the field which may be marked off for provincial legislative control, the sole legislative power is to rest with the provincial legislature. It is not, however, proposed to bar the legislative power of the Government of India in any spheres of provincial business.

Paragraph 212.

These proposals seem to us to be reasonable. They leave, however, to be settled the manner in which the field for provincial legislative control is to be determind. It is clear that the powers of the local legislature must be defined by statute. One method would be to authorize the local legislature to make laws for the peace and good government of the territories for the time being constituting that province, no statutory restrictions being imposed. But this would necessitate either a reference in each case to the Government of India for prior sanction, or the issue of administrative instructions defining the subjects with which the local legislature may deal, and of these alternatives the former is clearly objectionable, while the latter is open to the criticism noted by the Government of India in paragraph 12 of their letter of the 11th December, 1917, *viz.*, that it will no longer be either safe or suitable to rely on administrative instructions under the new conditions which the reforms will bring in their train. Another method would be to define in the statute in detail the subjects on which the local legislature might legislate, but this is open to the objection noted in paragraph 212, that it might leave the validity of Acts to be challenged in the courts on the ground that they are in excess of the powers of the particular legislature by which they are passed. In our opinion the preferable course would be (1) to authorize the local legislature to pass any laws except laws on certain specified subjects, for example, Army Currency, but (2) to require the prior sanction of the Government of India as regards legislation on certain other subjects, *i.e.*, subjects in which the provinces are directly concerned, but in which legislation is reserved in the interests of uniformity, or for any other reason, for the Imperial legislature; for example the Civil Law of the country as embodied in such Acts as the Contract Act, the Transfer of Property Act, etc.

2. *General criticism.*—Paragraphs 214 to 224 (Provincial executives) and 225 to 258 (Provincial legislature) taken together define the structure

of the Provincial Government. Briefly summarized, the proposals are as follows: —

In each province the Government is to consist of two parts. One part will comprise the head of the province and an Executive Council of two members; the other will consist of one or more ministers chosen by the Government from the members of the Legislative Council. These will hold office to begin with for the term of legislature, but it is contemplated that at the end of five years, either at the initiative of the Council or at the discretion of the Government of India, their salaries should be voted by the Council, and it may be assumed that in fact they will be so voted. Subjects classed as reserved will be in charge of the Governor and members of the Executive Council; subjects classed as transferred will be in charge of ministers. The Government will normally deliberate as a whole, but the decisions on reserved subjects and the supply for them in the provincial budget will rest with the Governor and his Executive Council, the decisions on the transferred subjects, and supplies for them with the Governor and the ministers. The Legislative Council is to contain a substantial elected majority. Legislation is normally to be passed by the Council, but the Governor is to have the power to refer a Bill dealing with the reserved subjects to a Grand Committee, of which he may nominate a bare majority. Similarly, the resolutions of the Council on the budget are to be given effect to save in so far as the Government exercises the power of restoring the whole or part of the original allotment for reserved subjects.

3. The weak point in this scheme is clearly the dualism in the Executive Government, which it contemplates. This is fully recognized in the report itself (paragraphs 223 and 241). It is urged, however, that no other course is consistent with the announcement of the 20th August, that any alternative solution would involve the refusal of any concession of responsibility at all until such time as we could give complete responsibility, and that the result would be to subject the mechanism of Government when the change to complete responsibility came, to so violent a shock that it might well break down. In the paragraph that follows we shall put forward for consideration a proposal of our own which, while preserving most of the features of the report's proposals seeks to retain unimpaired the unity of the Executive Government. But whether the verdict may be on the modification we suggest, we desire to place it on record that in our considered judgment a dual executive such as the report proposes to set up is likely in practice to give rise to very grave difficulties. In this pronouncement we are confident that we shall have the support of all experienced administrators. The report itself recognizes that the budget at least must be framed by the Government as a whole, and we shall have occasion to point out that proposals for taxation also must be framed by the whole Government. If, however, finance in all its aspects is to be dealt with by the Government as a whole, how or why duality can or should be retained, in respect of other spheres, it is hard to understand. Finance and administration are inter-dependent and inseparable. Neither the ministers nor the Executive Council can be said to be responsible for the development of the services under their charge unless they have complete financial responsibility for the administration of these services and for any improvements or alterations which they propose to make in the working of these services. We may

add that even if the inter-dependence of finance and administration ignored, difficulties of an insuperable character will still remain. The various branches of the administration overlap and inter-connect at innumerable points, and each of these points is a point of possible and probable friction. Given that mutual good-will and forebearance on which the report lays stress, almost any scheme may be made to work for a short time. But a scheme which pre-supposes for its continued existence the perpetual exercise of these qualities is destined to a short life. Sooner or later, and sooner rather than later, serious friction is certain to develop, and this may mean the end of the system. The alternatives would then be either a reversion to something like the *status quo ante* or that precipitate plunge into complete responsibility which the report justly deprecates.

4. The modification we should suggest is as follows: —

We would retain all the powers proposed to be conferred on the legislature, *i.e.*, the legislature would control legislation save in so far as the Governor exercised his power to refer Bill relating to reserved subjects to a Grand Committee, and would similarly control the budget, save in so far as the Governor exercised his right to restore the original allotment for the reserved subjects. The Executive Government would, however, consist of a Governor and four executive councillors, of whom two would be officials and two would be chosen from among the elected members of the legislature. The latter, since they would be selected from the ranks of the legislature for the express purpose of ensuring that they were persons in touch with and in general sympathy with its views, and since the legislature would control the budget provision for transferred subjects would as a matter of practice and convention be placed in charge of the transferred subjects. And again as a matter of practice and convention, the Governor, who would hold the casting vote in case of a difference of opinion between the official and non-official members, would normally defer to their advice in respect of these subjects. But there would be no formal division of the executive. The decision on all subjects would be taken by the Government as a whole, and all its members would be responsible for those decisions. Our proposal, it will be observed, is very similar to that criticized in paragraph 217 of the report. We have examined these criticisms and others elsewhere implied, and we shall endeavour to show that they are not conclusive. We recognize at the same time that our proposal constitutes a drastic modification of the system outlined in the report. But we are convinced that a unitary executive is an indispensable feature of any practicable form of government and we can see no better way in which this can be secured.

5. The argument advanced against a constitution such as we suggest seems to be twofold. In the first place it is contended that at some later date we shall be committed to a precipitate plunge from total irresponsibility to complete responsibility. This argument rests on the assumption that the gradual establishment of responsible government as annnounced in the declaration of the 20th August postulates the grant in successive steps of responsible government *of the parliamentary type*; and certainly if the assumption be granted, the logical cogency of the argument cannot be denied. As things are at present, the whole executive cannot, it is conceded on all hands, be made removable, as in the parliamentary form of government, by the legislature. The

alternatives are to apply the process as proposed in the report gradually and to one part of the government after another; or to retain an irremovable executive until conditions are ripe for the grant of full parliamentary government; and if these alternatives the latter, *on the assumption above noted*, is clearly open to the criticisms urged in the report. But we are unable to see why the announcement of the 20th August should be given the restricted interpretation placed on it in the report. Under our scheme the legislature will have wide powers and correspondingly wide responsibilities. It will normally control the course of legislation and the framing of the budget. It will be associated by means of a standing committee or committees with the administration of the various departments, and through the executive councillors chosen from its ranks, its influences will be felt in the every-day working of the departments. Its position, though inferior, will be in many ways analogous to that of Congress in the United States of America. Our scheme, moreover, admits of the progressive expansion of the legislature's powers (by the reduction of the number of reserved subjects) and of the progressive Indianization, as experience warrants, of the executive. The transition from a government of this type to full parliamentary government cannot fairly be described as a leap from total responsibility to full responsibility. We are fully alive, indeed, to the momentous character of the change that will be involved, and its possible perils but we do not see that in this respect the proposals of the report have more than a theoretical advantage. Under the scheme adopted in the report additional subjects will gradually be transferred, and an increasing portion of the executive will hold office at the will of the legislature. In appearance, therefore, the transition will be less violent than under our proposed modification. In practice, however, it will be at least as full of risk and at least as much in the nature of a plunge. The crux of the problem in both cases lies in the subjects connected with the maintenance of law and order. Complete responsibility under the report's proposals can only be granted when a stage has been reached at which the control of these subjects can be handed over to the legislature. But the transfer of these subjects will impose on the legislature a responsibility of an altogether different order to that previously borne by it, however complete the transfer of all other subjects may have been. There are differences in degree which are differences of kind, and this is a case in point. Previously the legislature will have had control of legislation in respect of, and of the supply for, the transferred subjects, and it will have been empowered to remove the ministers in charge of these subjects. The former of these powers it will possess under our scheme: the difference is only in respect of the latter. We have no desire to minimize the responsibilities involved in the appointment and removal of ministers in charge of numerous and important departments. On its proper exercise will, no doubt, depend the successful administration and development of these departments. But the effects of errors and blunders will be long in making themselves felt, and in no case will they involve a breakdown of the Civil Government. Law and order will be maintained and the administrative machinery will continue to function, however unwisely the legislature may chose its servants. With the transfer of law and order and the consequent subordination to it of the whole executive, the legislature will assume responsibilities far graver, more direct and more

insistent than it will ever previously have exercised. This cannot be avoided under any system, but the magnitude of the change will not be greatly reduced by vesting in the legislature the power to remove the ministers in charge of other subjects however numerous.

The second objection is that our proposal will result in making part of the Government responsible to two authorities. In respect of the reserved subjects the executive councillors appointed from the elected members of the Council will be responsible to the Secretary of State and Parliament; in respect of the transferred subjects they will be responsible to their constituents. In our opinion this objection has a merely theoretical validity. On the occurrence of a new election the constituents of an (non-official) executive councillor can, if dissatisfied with him, refuse to return him to the legislature, and to that extent it may be said that a dual responsibility is involved. But the successful working of any system of government or administration does not depend on its theoretical consistency but on its adaptation to practical needs and exigencies. It is a common place of English political thought that systems, in many respects anomalous, function excellently in practice. By limiting the selection of two of the executive councillors to elected members of the Council we ensure that the Governor shall have colleagues in touch with non-official views and aspirations. By placing the power of appointment and removal in the hands of the Governor and the Secretary of State we ensure that qualified persons are appointed, and we are unable to see why in practice the arrangements should not work satisfactorily.

We conclude that our proposal is not open to vital objections and we are convinced that if less symmetrical than that of the report it is at least better calculated to stand the test of working. But we realize that its chances of adoption are problematical, and accordingly in what follows we have taken as the basis the general scheme of the report and have confined our criticisms and suggestions to points of detail in regard to which amendments appear to us to be desirable.

Paragraph 218.

6. We consider that the status and emoluments of the Governor of the United Provinces should not be less than those of any other province. The area and population of these provinces are greater than those of any other and its importance in our judgment is at least as great. We can see, therefore, no reason for the maintenance of the existing distinctions, which appear to us to be a survival of conditions no longer obtaining.

Paragraph 220.

7. The proposal to appoint additional members without portfolios has been strongly criticized by the non-official members, whose views we have seen, and is not, in our opinion, likely to serve any useful purpose. As recognized in the report, the Governor can always seek the advice of any of his officials, and their formal appointment as members of the Government would not in practice confer any greater authority upon their opinions.

Paragraph 224.

8. We see no objection to the appointment of members of the Legislative Council to positions analogous to that of a Parliamentary Under-Secretary in Great Britain. We presume, however, that the persons selected will be appointed and removable by the Governor, and that suitable salaries will be paid to them.

9. We attach a note* embodying our proposals as regards the composition of the Legislative Council, the franchise and constituencies. In framing these proposals we have borne in mind the injunctions of the report. We provide for—

Paragraph 225.
*Appendix I.

(a) a substantial elected majority,
(b) direct election, and
(c) as broad a franchise as is possible having regard to the practical difficulties involved in the maintenance of an electoral roll, the attendance of voters at polling centres, the danger of impersonation and the subsequent adjudication of electoral petitions. As regards communal electorates, we have adopted the compromise agreed on by the Congress and Muslim League. We recognise that this compromise is far from having secured universal assent, but for the present it holds the field. No other solution has behind it any measure of agreement. We have also allowed separate representation to the taluqdars of Oudh, who from a distinct class in that province.

10. There was a difference of opinion in the committee as regards the desirability of allowing officials to vote on transferred subjects. The authors of the report desire to see the convention established that on such subjects the official members should abstain from voting and leave the decision to the non-official members of the Council. Four of us (Colonel Mactaggart, Mr. Porter, Mr. Chatterjee, Mr. Lambert) are opposed to this suggestion. In their opinion experienced administrators should be in a position to exercise some direct influence on the decisions of the legislature in regard to these subjects. Their votes will rarely be cast as a solid block, and even if so cast, could only operate to defeat a measure which had behind it little more than a bare majority of elected members. The remainder of the committee consider that the proposal in the report is a corollary of the general scheme adopted therein, and that its rejection would therefore be resented by non-official opinion and be difficult to defend. They are therefore in favour of retaining this provision.

Paragraph 233.

11. *Standing Committees.*—Four members of the committee (Colonel Mactaggart, Mr. Sim, Mr. Lambert and Mr. Chatterjee) are opposed to the proposal for establishing a standing committee consisting of members elected by the Legislative Council to each department or group of departments. They consider that the effect would be to weaken the responsibility of the ministers and that the committee would gradually arrogate to itself complete control to the department. In their opinion a single committee, as at present, *viz.*, the Finance Committee, will be a sufficient link between the executive and the legislature. The remainder of the committee would accept the proposal of the report. They do not anticipate that the administrative result will be as inconvenient as their colleagues fear. They consider also that the establishment of such committees would tend to make the relations between the executive and the legislature more intimate and harmonious.

Paragraph 235.

12. If supplementary questions are allowed we consider that the answer should not be placed on the table before they are read out in the Council. To place them on the table beforehand would inevitably lead to an abuse of the whole system of Council questions.

Paragraph 236.

Paragraph 238.
Appendix II.

13. We attach a note showing—

(*a*) the subjects which, in our opinion, should be assigned to the control of the Provincial Government and the Provincial legislature,

(*b*) the lists of subjects which should be transferred.

Appendix III.
Paragraph 252.

14. We are strongly opposed to the proposal that it should be open to the Council, by a majority vote, to request the Governor to refer to the Government of India the question whether a certified Bill deals with a reserved subject. We consider that to allow any such references which in practice would almost always be insisted upon will inevitably impair the authority of the Governor and render more difficult the discharge by him of the heavy responsibilities which the scheme will impose on him.

We would suggest as regards the composition of the Grand Committee that the Council should first elect its representatives, and that the Governor should subsequently make his nominations.

Paragraph 254.

15. For the reasons above indicated we are also opposed to the proposal that the Council should have the right to require a reference to the Government of India as regards a certificate given by the Governor to the effect that a Bill, clause or amendment trenches upon the reserved subjects.

Paragraphs 255-257.

16. We have considered the proposals in paragraphs 255 and 257 regarding budget procedure. We are agreed with the objections urged in paragraph 256 against the proposal, that there should be a financial settlement under which either definite revenues or a definite sum should be allocated to meet the cost of the reserved subjects for the following reasons :—

(1) that is it impossible, as stated in paragraph 256, to foresee the contingencies which may occur in six years, and to budget in advance for so long a period;

(2) that there is a great disadvantage in keeping any particular aggregate of revenues in a number of water-tight compartments, as any such allocation might provide funds for the cost of the reserved subjects which might either prove excessive or insufficient for actual expenditure.

We see no alternative, therefore, to the proposal in paragraph 256 "that the provincial budget should be framed *by the Executive Government as a whole*." (As already noted this conclusion appears to us to be a confession that the general scheme of dividing the Government into two distinct halves, each responsible for different branches of the administration, breaks down and cannot be given effect to in practice.) Nor can we see any escape from a similar conclusion as regards the question of new taxation. The proposal of the report is that "the question of new

taxation should be decided by the Governor and the ministers" and that taxation for provincial purposes should be one of the transferred subjects. Now it is quite true, as stated in paragraph 255, that "the transferred subjects are generally those which stand in greater need of development", and that the provision of additional funds will most frequently be required to meet the increasing needs of those services. But it is also perfectly clear that occasions will arise when it will be necessary to make substantial additions to the expenditure on the reserved services owing to the need for increasing the pay of the present staff. It will, for example, probably be necessary in the ordinary course of events to make substantial additions to the pay of the police force, and when it is remembered that an addition of Re. 1 a month in the pay of constables in this province means an increase of 4½ lakhs in provincial expenditure the possibility of the Governor having to ask the ministers to propose increases in taxation to meet increased expenditure on services in the working of which they have had no voice whatever is not a remote one. It is not clear what is to happen if the ministers not unnaturally decline to take the unpopular action of proposing increases in taxation for any such purpose. The Governor, it is true, can certify that the proposed increase in the expenditure on the reserved subjects is essential, but this does not improve the situation; and if the ministers decline to put forward proposals for additional taxation the only result would be that the budget would show large reductions in the provisions for such "popular" subjects as education and sanitation. We consider, therefore, that as the budget must be framed by the Executive Government as a whole, the question of new taxation must also be decided by the Executive Government as a whole which must take conjoint responsibility for the whole of the proposals both for the increases in income and the increases in expenditure.

These paragraphs propose that the budget must be passed by the Council and that the Council should have a power to alter the budget by means of resolutions. It is apparently not proposed to restrict this power by any limitations. We consider that the power should certainly be limited by some such restrictions as those mentioned in the memorandum by Sir Lionel Abrahams, which was contained as an appendix to the Government of India's letter of the 11th December 1917. He pointed out, for example, that—

(1) "A Provincial Legislative Council might claim to take part in the work of estimating, on what many roughly be described as its technical side, *i.e.*, might claim to correct the estimates submitted by the executive of the probable yield of certain heads of revenue or the cost of certain branches of expenditure. This might be desired with the object of showing, in opposition to the opinion of the executive, the room could be found in the budget for new schemes of expenditure. To admit such a claim might lead to insolvency."

He suggested that the safeguard against this danger was evidently to be found in the retention in the hands of the Proveincial Executive Government of the power of framing estimates of revenue and expenditure without the liability to be overruled, on the ground of alleged technical incorrectness, by the Provincial Legislative Council, and

pointed out that the retention of this power in the hands of the executive would be nothing peculiar as it would correspond, as closely as the difference in circumstances allows, to the practice of the United Kingdom. It may be noted that there is a similar provision in rule 13 the rules regarding the discussion of the financial statement in the Provincial Council which prevents any resolution being moved "if it challenges the accuracy of the figures."

This leads to a second limitation. It should also be provided that, except with the consent of the executive, no amendment should be allowed of the budget submitted by the executive to the Council which would have the effect of increasing provincial expenditure or diminishing provincial revenue. This is the practice in the House of Commons, and it is suggested that it would probably be convenient to adopt in the Legislative Council exactly the same procedure as in the House of Commons, that is to say, that members should not have a power of proposing definite provisions or reductions which are intended to be taken literally, but that they should merely have the power of moving formal reductions under specific heads for the purpose of obtaining an expression of the opinion of the Council, as to whether the provision under a particular head was sufficient or insufficient. This would give the Council the power of expressing its views on matters of policy, and the executive, if the resolution were carried against them, would then have to re-cast the budget and present a revised edition to the Council. The responsibility for the accuracy of the estimates for any new service or for increases to an existing service must rest with the executive and the departmental heads who are administratively responsible for the expenditure.

The Governor must retain the right to refuse by certificate to accept reductions proposed in the provision for the "reserved" services; but apart from this as the budget is not to have any validity until it has been passed by the Council, it will also probably be necessary that the Executive Government should have an emergency power of spending, if the Provincial Council fails to pass any budget or passes only an invalid one, *i.e.*, one which does not provide sufficiently for the reserved subjects. Should the Council delay to pass the budget by a definite date there will be no difficulty regarding the revenue, as no part of the revenue is collected under the authority of Acts remaining in force for one year only. The difficulty will only be regarding the grants for expenditure. It is, therefore, suggested that if the budget is not passed by a definite date the head of the province should have power to spend during the year on "reserved" services the amount declared by him to be necessary for them and on other services an departments an amount not more than equivalent to the amount included in the last preceding budget. Some of the difficulties in this connection might perhaps be avoided by having a distinction drawn somewhat similar to that in England between the "consolidated fund services" and the other items of expenditure in the budget; the former being carried forward from year to year and not having to be sanctioned in connection with each budget.

It is presumed that some of the existing rules controlling the powers of the Provincial Government will have to be retained in the rule which will be framed by the Council for the budget discussions, *e.g.*, the present rule that the Government may not budget for a deficit (*i.e.*, an

excess of the expenditure over the revenue of the year) unless the reason for the deficit is exceptional and non-recurring, and the rule that the budget must not estimate to reduce the closing balance of the province below the prescribed minimum unless suitable arrangements are made for the restoration of the minimum.

The last danger to be provided against is expenditure outside budget grants or to express it more generally, unauthorized expenditure of whatever kind. Sir Lionel Abrahams has pointed out that "in the absence of a prescribed preventive procedure (1) a Provincial Council in moments of generosity might propose to vote away money on casual occasions: (2) officials might fancy that they have a very general right to give instructions for expenditure on their own responsibility. He suggests, therefore, that "to guard against these possibilities, it appears necessary to provide (1) that no expenditure of provincial money outside the budget grants shall be allowed except in accordance with a vote of the Provincial Council passed on the recommendation of the head of the province, and (2) that the custodian of all the provincial revenue shall be an auditor with the right to scrutinize requests or instructions by officials purporting to authorize disbursements." It would, however, be necessary to allow a system of delegation of powers of minor expenditure and also to reserve to the executive certain limited powers of reappropriations somewhat on the lines of the system at present in force.

It will further be necessary to take power for the Executive Government to introduce supplementary estimates in cases where the sanctioned provision is found for unforeseen causes to be insufficient. The most common case where such a power would be brought into use would be on the occurrence of a famine, but as it is impossible to foresee all the contingencies that may arise during a period of 15 months, it might be necessary to use these powers on many other occasions. The present procedure is that if it is impossible to meet an excess of expenditure under any one head from savings under other heads, *i. e.*, if the total budget provision for the provinces proves insufficient, the local Government asks the Government of India for permission to exceed the total budget allotments. It has, for example, been necessary to address the Government of India already three times in the current year asking for such permission owing to—

(1) it being anticipated that the original provision for Grain Compensation Allowance would be insufficient,

(2) additional funds being required by the Forest Department to finance some of their commercial activities, which were not contemplated when the budget was originally framed, and

(3) to enable the Jail Department to comply with a request from the Munitions Board to supply a very large number of blankets for war purposes.

In place of asking the Government of India it will simply be necessary to obtain the sanction of the Council to such increases in expenditure. Again, under the present system the total expenditure for the province is definitely fixed by the Government of India, and that expenditure may be worked up to irrespective of the variations in the budgetted income. But when the Provincial and Imperial finances are entirely separated, it may be necessary to bring in a revised budget

owing to the income being less or greater than was anticipated. The procedure with regard to supplementary estimates and revised budget would be exactly the same as that for the original budget.

H. C. FERARD.
H. M. R. HOPKINS.
L. C. PORTER.
C. MACTAGGART.
S. P. O'DONNELL.
A. C. CHATTERJEE.
G. G. SIM.
G. B. LAMBERT.

No. 19351 (Home—Judl.), dated Lahore, the 5th November 1918.

From—The Hon'ble Mr. J. P. THOMPSON, I.C.S., Chief Secretary to the Government of the Punjab and its Dependencies,

To—The Secretary to the Government of India, Home Department.

I am directed to reply to Mr. Hignell's letter no. 950, dated the 15th July, in which the opinion of the Lieutenant-Governor is asked on the proposals contained in paragraphs 212—295 of the Report by His Excellency the Viceroy and the Secretary of State on Indian Constitutional Reforms.

2. In compliance with the desire expressed in Mr. Hignell's letter that the views of those consulted should be forwarded to the Government of India, I am directed to submit copies of the opinions which have been received. Some of the officials consulted have expressed apprehensions lest the system proposed should prove too great and too sudden an advance, for the country in its present condition. These apprehensions have found utterance in England as well as in India, and Chaptar VI of the Report recognises that they are not without justification. The authors of the Report hold, however, that the conditions of the problem and the announcement of 20th August 1917 have forced on Government the necessity of making a substantial advance in the direction of responsible Government as soon as possible. The Lieutenant-Governor accepts this conclusion and recognises that any official plea which questions its soundness is inadmissible at the present stage. He feels, however, that much of the criticism to which he refers possesses great weight. It finds, too, considerable support in the general indifference with which the proposals have been so far received by the great masses of the population in town and country outside the limited political circles and the classes who consider that their interests are inadequately safeguarded or likely to be adversely affected by the scheme as it stands. He therefore ventures to suggest that statesmen, both in England and in India, should devote more attention than they have hitherto done to justifying the proposals both to those who have shown no interest in them at all and to those who regard them as either premature or unsuitable to Indian conditions. The arguments advanced by critics of the latter class strike at the root of the whole question and are infinitely more difficult to dispose of than those put forward on the other side by Indian politicians who lacking practical experience but skilled in the dialectics of constitu-

tional discussion, press for concessions far beyond what the authors of the report think it safe to grant. What the critics whom the Lieutenant-Governor has in mind ask for is solid argument and this they are entitled to get. Official spokesmen have hitherto occupied themselves mainly with answering those who think the scheme inadequate. What His Honour suggests is that they should in future pay more attention to the arguments of those who think the scheme goes too far.

3. The Lieutenant-Governor's views on the main factors in the present situation were expressed at length in his note of 10th January 1918 (of which a copy is enclosed for reference). He would invite attention to that memorandum as embodying the views which he still in substance holds on the conditions of the problem. It appears from Chapter VI of the Report that the authors in their admirable discussion of these conditions are fully alive to the existence and importance of most of the factors mentioned by His Honour though they are perhaps a little reluctant to emphasise some of them, as for instance, the attitude of the politicians towards the services and the danger that the withdrawal of the existing form of government from many of its present functions will revive old and even create new lines of racial and sectarian cleavage. They have accordingly provided a number of very necessary safeguards. Among these are the expedients of the Grand Committee and the certificate procedure and these go far to remove the difficulties (summarised in paragraphs 23 and 25 of the memorandum) which the Lieutenant-Governor felt in accepting a large elected majority in the provincial council. Briefly, he accepts that majority now because provision has been made which enables the Government to put through essential legislation and secure adequate supplies for essential services, but his acceptance is conditional on the unqualified maintenance of those indispensable safeguards, with the modifications and additions suggested in paragraph 24 below. At the outset he also wishes to make it clear that the development of responsible government by the division of the administration into reserved and transferred subjects appears to him open to serious criticism, as conflicting with Indian ideas and likely to produce constant friction and agitation, and his alternative suggestions will be explained in detailed in the remarks (paragraphs 21-23 below) on paragraphs 238—246 of the scheme.

4. The above remarks are not intended to suggest that the Lieutenant-Governor has any doubt as to the general course that Government should steer. He readily accepts the four formulæ enunciated in the preliminary chapter of the second part of the Report as the basis of the action to be taken as he believes that we have reached a stage at which the only efficacious argument left is experiment, and if the experiment is to be of any value, it must be made on a liberal scale. Subject to our primary obligation for law, order and a reasonable standard of good government—an obligation which we cannot abandon till such time as the people as a whole are in a position themselves to enforce it—he agrees that the councils and the ministers, through whom they will exercise their power or their influence, must be given the opportunity of making mistakes and learning by them. Otherwise the experiment will have little educational value, its results will be unconvincing, and the Commission which is to report

twelve years hence will have insufficient materials on which to base a judgment in regard to Indian political capacity. He thinks, however, that the mistakes will be less serious and the process of learning more speedy under a system of association and co-operation rather than under that of partial separation which is involved in the proposed division of the functions of Government.

5. With these preliminary remarks, I am directed to communicate the view of His Honour the Lieutenant-Governor on the details of the scheme, in the order in which they are dealt with in the Report. Absence of comment should generally be taken to indicate approval, or at any rate acceptance.

Legislative Devolution.

6. *Paragraph 212.*—Presumably ample notice would be given to the province concerned in all cases in which the Government of India proposes to legislate on matters which normally fall within the competence of provincial legislatures. This will be necessary in order to prevent clashing.

Administrative Devolution.

7. *Paragraph 213.*—The Lieutenant-Governor does not think he can add anything of value at the present stage. It is understood that the provincial Government in exercising its powers of control in transferred subjects in the interests of law and order and good government would in itself be subject to the control of the Government of India.

Council Government.

8. *Paragraph 214.*—The Lieutenant-Governor has already accepted the principle of council Government, but so far as his experience in the Punjab goes there is no foundation for the belief that in the past the pressure of work has resulted in matters of importance being disposed of in the Lieutenant-Governor's name but without personal reference to him, by Secretaries to Government.

The proposals of the authors of the Report for Provincial executive.

9. *Paragraph 218.*—Lieutenant-Governors of the Punjab have hitherto been able to discharge their duties without undue delegation to Secretaries because they have had long experience of the province, its people and its problems. A Governor from home would not have those advantages and would be unable to carry on the administration without the assistance of an executive council. He would moreover find ignorance of the vernacular a serious handicap. A recent calculation made by the Lieutenant-Governor shows that about seven out of every ten non-officials to whom he grants interviews either know no English or are unable to express themselves in that language. Yet these are the men to whom the present Lieutenant-Governor and his predecessors have invariably appealed—and rarely in vain—for support and co-operation in times of stress and difficulty. To cut off these men from that close personal intercourse with the Head of the Government which depends on mutual comprehension would, in the Lieutenant-Governor's opinion, seriously weaken the administration.

It is suggested that the fact that the Head of the Government in all provinces will in future be styled Governor would not imply any equality of emoluments or status. Distinctions between provinces in such matters would be unpopular and would be resented. The opinions submitted contain indications of this feeling.

If the division of subjects is carried into effect, the number of ministers will, as observed in the Report, depend on the number and importance of the subjects transferred, but as explained later the Lieutenant-Governor would prefer a simpler system, under which no subjects would be transferred or reserved, but all would be dealt with by the Government as a whole.

If, however, the system advocated in the Report is adopted, there are advantages as well as risks in having more than one minister. The risk that they might overawe the Indian member of Council is greater if there are two or three than if there is only one. On the other hand, if there are more ministers than one, it is unlikely that they will all belong to the same religion, or the same political party, and each will act as a counterpoise to his colleagues. The Lieutenant-Governor thinks on the whole that if political rather than financial considerations are to prevail the advantage is on the side of plurality.

As regards pay, it is understood that no proposals are at present desired. All ministers in England do not draw the same pay, nor indeed do the ministers in large Indian States, Hyderabad, Gwalior, Kashmir, or the Executive Councillors in Mysore, and it seems an unwarrantable extravagance to pay inexperienced learners the same salaries as the experienced administrators who will have proved their fitness to be appointed to Executive Council. On the other hand, it is perhaps unreasonable to expect lawyers to give up for three years a lucrative practice and to face the risk of losing their connection at the bar, unless they are offered susbtantial remuneration, and the same consideration might apply to others as well.

As regards the Indian Member of the Executive Council, the Lieutenant Governor agrees that the choice should not be limited to elected members of the legislatures. There has been a demand in some quarters that the ministers should be elected by the elected members, but the Lieutenant-Governor agrees with the authors of the Report that that they should be chosen by the Governor from among the elected members and should not be themselves elected by the Council. As Mill observes, it is "a most important principle of good government in a popular constitution that no executive functionaries should be appointed by popular election : neither by the votes of the people themselves nor by those of their representatives". The reason he gives is that the entire business of Government is skilled employment, and the qualifications for the discharge, if it can only be properly judged by those persons who have themselves some share in those qualifications or some practical experience of them. The Lieutenant-Governor entirely agrees.

There are certain aspects of the proposed form of government which seem to the Lieutenant-Governor to call for further explanation. In the first place it is stated that the ministers will be responsible to their constituents and it is implied that they will not be responsible to the Council. Whatever may be thought of their responsibility to their constituents, it seems to the Lieutenant-Governor that they will be directly responsible to the Council in a way which the Report appears to overlook. As the Lieutenant-Governor reads the scheme it will be open to Council from the start to refuse supplies for the transferred subjects, and it is difficult to conceive of a more direct form of responsibility than this power involves. The proposals do not provide any method of meeting

the situation that would be thus created, short of a dissolution, and even that would not offer any immediate remedy. It is true that the members would probably not face a dissolution with equanimity. But is it intended that this should be the only method of dealing with the situation? It seems in any case essential that the Governor should have the power of compelling a minister to resign on what would be tantamount to a vote of want of confidence. This power the Report does not propose to confer, but it is a necessary corollary of the system contemplated. The knowledge that the alternative to the dismissal of the ministers would be the dissolution of the Council should tend to prevent a frivolous or factious use of the power to refuse supplies. And not only should the Governor have power to require the resignation of a minister who has lost the confidence of the Council, he must also, if deadlocks are to be avoided, have power in the last resort to require the resignation of a minister who has lost the confidence of the head of government.

It may be that the Lieutenant-Governor has misunderstood the intentions of the authors of the Report in regard to the responsibility of ministers in the initial stages. He observes that they write in paragraph 237: "When ministers become, as we intend that they should, accountable to the Legislative Council, the Council will have full means of controlling their administration by refusing them supplies." This seems to imply that during the preliminary period the Council will not be able to refuse supplies, but paragraph 256 provides no method for securing supplies for transferred subjects which the Council has refused.

The second point to which the Lieutenant-Governor desires to draw attention is the observation contained in paragraph 222 that "the decisions of the Government should be loyally defended by the entire Government".

This remark may be looked at from two points of view, that of the members of the executive council and that of the ministers. No analogy can be drawn from party ministeries in England, all the members of which are *ex hypothesi* agreed on the main features of the party's policy. The power of selection of ministers given to the Governor may tend to ensure that the ministers selected are men of moderate views. But there will be instances in which the legislative councils will, by the exercise of their power of refusing supplies, or otherwise, be able to force on Government ministers of their own choice, and those may be men of extreme views who would not hesitate to bring about a deadlock. The Government might then include members of all shades of opinion, and to use the phraseology of home politics—Radical ministers might be called on to defend a Conservative policy in the reserved subjects, while Conservative members of council would be expected to argue in favour of the proposals of Radical ministers. Such a situation would, according to parliamentary tradition, be solved by the resignation of either the ministers or the members of council, but in this respect the ministers and the members of council are hardly on the same footing. The tenure of a man who holds a membership of council as the climax of a long and distinguished official career is very different from that of a politician whose seat in the Ministry may be merely the result of an accident in an election. The difficulty is no doubt due to the Indian system under which it is possible, for a permanent official to become in fact, if not in name, a minister of the Crown; but it seems to the Lieutenant-Governor that

some further explanation of what is intended should be given. This is one of the many difficulties that would be obviated by the Lieutenant-Governor's alternative proposal on paragraphs 238—246.

Additional members without portfolio.

10. *Paragraph 220.*—In provinces where the Governor has previous Indian experience the Additional Members, whom it is proposed to appoint, would be unnecessary, and indeed it does not appear to be the intention of the framers of the report that in such cases additional members should be appointed.

It is presumed that Secretaries would attend, if necessary, at meetings of the Government to explain cases connected with their departments, though they would take no part in the final decision.

Where the Governor has no previous experience of India, the case is stronger for the appointment of additional members. If appointed they should be allowed to vote and should receive some extra remuneration for the additional work. Indeed if, in the words of paragraph 220, they are "to be members of the Government with the status and authority attaching to such officers" it is clearly inconsistent to refuse them the right to vote.

Advantages and disadvantages of this plan.

11. *Paragraph 221.*—The last sentence of the paragraph states that in case of a difference of opinion between the ministers and the executive council in certain questions the decision will rest with the Governor. It is not clear what would happen in case one of two members of the executive council voted with the ministers. In such a case presumably the question whether there was a difference of opinion between the ministers and the executive council would in itself depend on the views held by the Governor as President of the executive council. If he agreed with the executive councillor, whose views coincided with those of the ministers there would be no "difference of opinion between the ministers and the executive council".

A further proposal.

12. *Paragraph 224.*—The proposal to appoint Under-Secretaries has been generally approved, and the Lieutenant-Governor agrees that it is desirable. Their duties would occupy only a small portion of their time, and it would probably be enough that they should be present at headquarters some few weeks before each Council meeting in order to draft answers to questions and consider the business which would come before the meeting. They should of course be paid for their work, but till its nature and extent are more precisely defined, it is not possible to suggest the scale of remuneration.

Composition of the councils.

13. *Paragraph 225.*—The Lieutenant-Governor has appointed a committee to consider questions relating to the franchise and constituencies. Pending the receipt of their report and of the views of the present Council, which under recent instructions of the Government of India is not to be consulted till the Franchise Committee has started work, he is not in a position to make his final recommendations on either subject. The remarks which follow are, therefore, subject to further consideration at a later stage. The rural population is roughly nine-tenths of the whole, and the urban—taking towns with a population of over 5,000—is about one-tenth.

The constitution of the provincial council, which the Lieutenant-Governor at present contemplates, is as follows :—

Rural constituencies—3 members per Division	15
Special Sikh constituencies [Lahore Division 2 members, Jullundur Division 2, Ambala, Rawalpindi and Multan (jointly) 1].	5
Large landholders' constituencies, 1 per Division	5
Urban constituencies (Lahore Division 2, other Divisions 1 each)	6
Trade and industries	2
University	1
Nominated non-officials	6
Nominated officials	11

This gives a total of 51—against a present total of 30—of whom 17 or one-third would be nominated. The proportions of elected (2-3) and nominated (1-3) members are as proposed for the Legislative Assembly of India, while the total strength of the Provincial Council would be half of that considered sufficient for the All-India Council and would be ample to secure representation of all important interests of the Province for many years to come.

Communal representation has rightly been proposed in the report (paragraph 232) for the Sikhs, as experience has proved that it is the only method of securing to them adequate representation. Sikhs whether living in towns or in rural areas, would vote only in the special Sikh constituencies, and not in the general urban and rural constituencies.

The urban constituencies would consist of persons living in municipalities, cantonments and notified areas.

Among interests to be provided for by nomination, the military class, Anglo-Indians and Indian Christians should be borne in mind. The importance of the first named will appear from the fact that there are now over 400,000 Punjabis serving in the Indian army. Nomination is also necessary to redress inequalities in the results of the elections and to protect the interests of the more backward and inarticulate classes.

Roughly speaking, five-ninths of the population are Muhammadans, three-ninths Hindus, and one-ninth Sikhs. The Lieutenant-Governor would expect the constituencies proposed, under normal conditions, to return 12 or 13 Muhammadans and 12 to 14 Hindus. The Sikhs, in spite of their special constituencies, would not be excluded from the large landholder constituencies, and they might be expected to return 6 members in all, while Christians (Europeans) would probably obtain one member from the commercial constituencies. If the results worked out in this way the proportions as between Hindus, Muhammadans and Sikhs would be roughly 5 : 5 : 2 which would satisfy the expectations of the Sikhs and Hindus but would probably not satisfy the Muhammadans. Indeed this result is almost exactly what the Hindu Sabha has asked for. They suggest that after deducting the seats for special constituencies, and the Sikhs, the remainder should be divided equally between Hindus and Muhammadans, the representatives to be elected preferably by a general electorate voting separately for Hindus and Muhammadans; but, failing that and as a last resort, by communal electorates. In the Punjab, Muhammadans constitute about 55 per cent. of the population and though at present it is too early to say what proportion of the voters will be Muhammadans, it may be assumed that

the Muhammadans, on the strength of their numerical superiority and of the Congress League agreement* allotting 50 per cent. of the elected members to the Muhammadans of the Punjab, will press for that proportion. The investigation of their claim will be a matter for the Franchise Committee, when statistics are available to determine the probable voting strength of the different communities. But the facts briefly narrated above go to show that, apart from the theoretical objections to it, the system of communal representation would afford the simplest solution of conflicting claims in the Punjab. It would meet the views of Muhammadans and Sikhs, and though deprecated by the Hindus generally, their political leaders could not well go back on the Congress-League pact of 1917.

The system of election and the franchise.

14. *Paragraph 226.*—The Lieutenant-Governor is on the whole in agreement with the proposal to do away with indirect election. At the same time, as indicated in paragraph 6 of Appendix C of my letter no. 1539, dated the 19th January 1918, he is in favour of granting the franchise to village headmen as the recognised spokesmen of their communities and also to members of municipalities and district boards. He considers that a distinction may be drawn between the present system of exclusively indirect election and the allowing of votes to men who possess a certain status as indicated by the position they hold. The objections to indirect election are largely objections to a system under which electors are chosen solely for the purpose of the election and with an express mandate as to the manner in which they are to exercise their choice. These objections do not apply in the same degree to cases in which the electors are men who are appointed primarily for the discharge of other functions. It seems to the Lieutenant-Governor undesirable to differentiate in regard to the qualifications for a vote between different parts of the same province, if it can be avoided. The grant of the franchise to village headmen will to some extent do away with the difficulty in the Punjab.

It is in one sense desirable to make the franchise as broad as possible, but the limits of possibility in this case are the limits set by the nature of the material to be dealt with, and these limits are shown in Chapter VI of the report to be at present very narrow. Every one acquainted with Indian conditions will endorse the statement in paragraph 133, *viz.*, "the rural classes (226 out of 244 millions) have the greatest stake in the country because they contribute most to its revenues; but they are poorly equipped for politics and do not at present wish to take part in them". The suffrage should, if possible, be limited to those who are capable of taking an intelligent interest in public affairs. To quote the words of Mill, "Representative institutions are of little value, and may be a mere instrument of tyranny or intrigue, when the generality of electors are not sufficiently interested in their own government to give their vote, or if they vote at all, do not bestow their suffrages on public grounds but sell them for money, or vote at the beck of some one who has control over them, or whom for private reasons they desire to propitiate. Popular election thus practised, instead of a security against misgovernment, is but an additional wheel in its machinery." Mill's words exactly describe a common feature of Indian municipal elections the franchise for which is usually low, and it is significant to find that

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non-officials generally favour a very much higher standard of qualification for the political franchise. The desirability of limiting votes to those who take an interest in public matters is a warning against going far in the direction of popular Government before it can be established on a popular basis, *i.e.*, on the basis of a wide electorate representative of all important interests and capable of forming a judgment on the issues involved : it is also an argument in favour of indirect election in present Indian conditions.

Communal electorates.

15. *Paragraphs 227—230.*—The Lieutenant-Governor considers communal representation inevitable in existing circumstances to the extent proposed, *viz.*, for Muhammadans (where in a minority) and for Sikhs in the Punjab and he thinks it will be found necessary to extend the principle much further. For while he agrees with the conclusion stated in the last sentence of paragraph 228 that the history of self-government among the nations that developed and spread it is decisively against the admission by the State of any divided allegiance, he doubts if the conclusion applies to oriental countries, such as India, where the idea of self-government as understood in the west is not an indigenous growth, but an exotic. If we desire to foster its growth on alien soil, our best chance of success is to graft it on to the most vigorous of the indigenous stocks. These at present are, in the Lieutenant-Governor's opinion, only to be found in the caste and communal institutions which have in the past kept the social system intact through centuries of invasion and misrule, and which even in the present day are the most potent social forces. Indeed the argument based on western experience that the system of communal representation is inconsistent with the development of self-governing institutions is tantamount to an admission that India is not at present ready for such institutions.

In paragraph 230, it is remarked that where there is communal representation of minorities, "the give-and-take which is the essence of political life is lacking." This is not the Indian view nor is it supported by experience, at least in Northern India. In municipalities where there has been serious friction between Hindus and Muhammadans the people concerned have generally asked and are still asking for communal representation as the only cure. It has accordingly been recognised universally in the United Provinces and has been granted in nearly all the large and many of the lesser municipalities of the Punjab, and where it has been granted in this Province sectarian feeling has generally abated.

Other minority representation.

The Lieutenant-Governor's present opinion is that if under the franchise proposed Muhammadans and Hindus are likely to secure a number of seats, roughly proportionate to their population, interests and voting strength, there will be no need for communal representation in the Punjab, except in the case of the Sikhs. If, however, the Muhammadans are likely to secure less than 45 to 50 per cent. of the seats they will represent it as a grievance, and the simplest solution would be, as already suggested, to give communal representation to all three communities. He is inclined to think the system suggested in the concluding sentences of paragraph 232 might be tried as an experiment in the Lahore urban area which should, he proposes, return

two members. One should be a Hindu and one a Muhammadan. Each voter would have two votes, but he would not be allowed to plump for a single candidate nor could he vote for two candidates belonging to the same religion.

16. *Paragraph 238.*—The Lieutenant-Governor does not think it is desirable to exclude officials from voting on the transferred subjects. They will be members of the Council, and for many years to come their wide experience and their capacity to represent the views of the masses amply justify their having a voice in the decision of those subjects. The official *bloc* is to be done away with. Questions of confidence in transferred subjects will probably be few in number, and the freedom of speech, which it is proposed to grant to officials, should be accompanied by freedom of vote.

Official members.

17. *Paragraph 234.*—The Lieutenant-Governor agrees with the proposal to abolish the designation "Hon'ble" and the term "Additional Members" and to allow provincial legislators to affix the letters M.L.C. to their names, but would suggest that at the same time the special precedence which is granted to them under the Warrant of Precedence should be done away with. At present, it not seldom happens that at functions held at the headquarters of divisions, the man who ranks highest is not the Commissioner or the local Brigadier, but some obscure pleader who has been elected to the Legislative Council. Between officials, too, Council rank introduces undesirable complications, as a Secretary to Government who is a member of Council takes precedence of a Commissioner who may be many years his senior but does not happen to be a member of Council. Members of Parliament as such are entitled to no precedence, and the Lieutenant-Governor sees no reason for departing from this practice in the case of members of Legislative Councils. Ministers should however be given precedence.

Designation of members.

18. *Paragraph 235.*—The Lieutenant-Governor approves of the proposals. He would suggest that the printed proceedings of Government should be circulated to members of the standing committees in order to keep them in touch with the working of the departments with which they are concerned. He agrees that heads of departments should be full members of the standing committees appointed for their departments, whether members of Council or not. The alternative would be to follow the American example and give the committees power to summon and examine officials, but so long as some heads of departments are members of Council and some are not, the Lieutenant-Governor thinks it will be best to make all alike eligible for membership of the standing committees.

19. *Paragraph 236.*—As the Councils are to be considerably enlarged, it will be necessary to consider the question of conducting debates in the vernacular. In the Punjab hitherto there have generally been one or two members who have been unable to express themselves in English and others who would probably have preferred to express themselves in the vernacular and whose opinion if expressed in their own vernacular would have had more force and value. In future there will be a larger proportion of members who know but little English, and if we are to

Control of business.

remove the impression that the reforms scheme is intended mainly to benefit the small English-educated class it is essential that the use of the vernacular should not be discouraged. This point has some bearing on the selection of a Governor, for if the debates are not conducted in English, the position of a Governor from England when presiding would be an awkward one. His place could, however, be taken temporarily by the Vice-President.

As regards rules of business, the present position is that—

(*a*) under section 80 (3) of the Government of India Act, the Lieutenant-Governor, with the sanction of the Governor-General in Council, makes rules regarding (*i*) the discussion of the annual financial statement, (*ii*) the discussion of any matter of general public interest, (*iii*) the asking of questions, (*iv*) the appointment of a member to preside in place of the Lieutenant-Governor, and (*v*) the appointment of a Vice-President ; and

(*b*) under section 83 (2) the Council, with the assent of the Lieutenant-Governor, may alter the rules for the conduct of legislative business, and any alterations so made may be disallowed by the Governor-General in Council.

The Lieutenant-Governor sees no objection to the proposal made in paragraph 236 that the Council should in future have power to modify the rules with the sanction of the Governor.

As a matter of fact the rules that have been made under section 80 go very much further than the wording of the section would appear to allow. They provide not only for the matters specified in the section but also for the meetings of the Council, the duties of the Secretary, the admission of strangers, the printing of papers, etc.

The Lieutenant-Governor cannot find any provision which lays down the manner in which the Legislative Council of the Lieutenant-Governor is to be summoned. Section 75 of the Act states that the Legislative Councils of the Governors of Bengal, Madras and Bombay shall assemble at such times and places as the Governor appoints. There is no corresponding provision in regard to other provincial councils. This omission should be rectified when the Act is revised.

Effect of resolutions.

20. *Paragraph 237.*—The Lieutenant-Governor is glad to observe that most politicians have now come to see the impossibility of giving to resolutions binding force.

In the remarks on paragraph 218 reference has been made to the difficulty of reconciling the last sentence of this paragraph with the proposals contained in paragraph 256 and it has been suggested that it will be necessary that the Governor should have the power to require the resignation of a minister or to dismiss him. The circumstances justifying this action might be defined in the instrument of instructions.

Division of the functions of Government.

21. *Paragraphs 238--246.*—The Lieutenant-Governor concurs generally in the reasons given by the authors of the report for rejecting the alternative schemes described in paragraphs 242—246, and so far as he is aware none of them has found favour with any considerable body of critics since the report was published. At the same time he feels

very doubtful about the division of subjects into "reserved" and "transferred," and he finds that his doubts are shared by politicians of many different shades of opinion. He would prefer a system under which there would be no reserved subjects and no members of council, but a cabinet consisting of three ministers, *viz.*, one British official, and two Indians, of whom one at least should be a non-official, chosen from among the elected members of council. The British official might be styled Vice-Governor, and would be Vice-President of the Council. The distribution of the portfolios would rest with the Governor and might vary from time to time (though this is not an essential part of the proposal) and responsibility for the decision of Government on all subjects would be shared by all the ministers alike. Briefly His Honour's aim would be to give from the start *some* responsibility in *all* matters rather than *full* responsibility in *some*. The grand committee would be retained and any particular measure or proposal which was certified by the Governor to be one affecting law and order would come before the grand committee in the manner proposed in the report. Development in the direction of responsible government would come more smoothly though perhaps less perceptibly than under the system proposed in the report. The first step might well be to provide that both Indian members of the cabinet should be non-officials. At a later stage both might be chosen from the elected members and, as experience widens, the occasions for reference to the grand committee would diminish in number.

The Lieutenant-Governor is, however, unable to see so far into the future as to visualise the conditions contemplated in paragraph 260 of the Report, when, as a result of complete responsibility being attained, the grand committee will vanish, and the official element will disappear from the government. He ventures to assert (1) that as long as a British element is maintained in the services and British capital is invested in India, so long will it be necessary to maintain in the government a British official member—in addition to the Governor—to safeguard those interests as well as the interests of the Indian classes who may be inadequately represented, and (2) that the maintenance of a substantial British element in the services is essential if India is to remain "an integral part of the British Empire," as postulated in the announcement of 20th August 1917. In paragraphs 5 and 17 of his memorandum of 10th January the Lieutenant-Governor gave reasons for his belief that one of the first objects of the advanced politicians would be to squeeze or starve the British elements out of the services. His arguments have received striking corroboration in the recent resolutions not only of the leading Indian political organisations but also of the non-official members of the Imperial Legislative Council—the very men from whom many of the future ministers would probably be selected—which not only brush aside the very moderate proposals in Chapter XI of the Report for the much-needed improvement of the conditions of those services, but demand that half of the vacancies in the Civil Service and one-fourth of those in the Indian Army should forthwith be reserved for Indians. Indeed many competent critics are of opinion that the proposals contained in the Report for recruiting one-third of the Indian Civil Service in India at once, the proportion rising to one-half in 10 years, will involve the cessation of British recruitment for that service at no very distant date and that the process will be extended even

more rapidly to other services. Once the services are completely Indianised, the natural consequence would be that the British official in the Council would disappear, and the Government would consist of a Governor and a cabinet of Indian non-official ministers responsible to the Council. Such a consummation might be consistent with complete self-government, but it would not, in the Lieutenant-Governor's opinion, secure the maintenance of India as an integral part of the British Empire, and he therefore thinks it his duty to emphasise the dangers ahead and to suggest how they may be averted. If the British official goes and with him the British character of the administration, British enterprise and British capital will follow and with the disappearance of the two great forces that have worked for the moral and material uplift of India the average Indian may think that he has paid too high a price for the blessings of complete responsibility.

The same.

22. The alternative system proposed by Sir Michael O'Dwyer would, he ventures to think, have certain obvious advantages over that proposed in the report: —

(1) It preserves the unity of Government. In the eyes of the people, it will be the one *Sarkar* which is responsible, and it will be a long time before they grasp the novel idea of the separate responsibility of the ministers. By the initial appointment of one non-official elected member of the Legislative Council to the cabinet, and the subsequent addition of another non-official, the populace will learn by degrees to identify the representatives of the electorates with the Government and to regard them as responsible for the acts of the *Sarkar*. Meanwhile, the country would be spared the ostensible creation in the bosom of Government of two elements which, if not mutually hostile, might be expected on many matters to manifest opposite tendencies.

(2) It gives effect to the policy formulated in the announcement of August 20th, 1917, "of the increasing *association* of Indians in every branch of the administration and the *gradual development* of self-governing institutions." The declaration in paragraph 264 of the report* is doubtless to be read subject to that of 20th August.

* We wish to attain complete responsibility where we can and as early as we can, and we intend that its attainment should depend upon the efforts of the Indian people themselves. It would not be fair to give it to them till they fulfil the necessary conditions.

(3) It will maintain the British element in the whole administration, which is essential if India is to remain an integral part of the British Empire, and is indispensable while the training of the electorate and of the representatives in a sense of responsibility and a spirit of co-operation is still incomplete. It also avoids the error of making over entire subjects to inexperienced ministers.

(4) It obviates the possibility of premature agitation for increase in the number of transferred subjects. Stress was laid on the importance of this in paragraph 14 of Mr. Marris' letter of 11th December 1917 and in paragraph 16 of His Honour's Memorandum of 10th January 1918; and the recent

resolutions of the non-official members of certain Councils that all subjects should be at once transferred give point to the criticism.

(5) It also obviates the anomaly of the Government of India and Secretary of State having to retain control of certain subjects in provinces where they are reserved, while in other provinces where these subjects are transferred they would be outside their control.

(6) It will do away with the scramble over the Budget and with the many other difficulties caused by the overlapping of reserved and transferred subjects, and the probability of having to treat some subjects (*e.g.*, Education, Forests, Irrigation, Agriculture in Illustration List II) as partly reserved, partly transferred. These difficulties will be very real and the control given to ministers in the transferred subjects will under the scheme be to some extent illusory and to that extent will disappoint political expectations. Legislation on these subjects is certain to raise questions affecting law and order. Every bill which contains penal clauses trenches on a reserved subject inasmuch as such clauses cannot be enforced without the intervention of the courts and the police. Bills dealing with sanitation, compulsory vaccination, compulsory education and similar subjects will be useless without penal clauses. Bills of this kind will be numerous in the enlarged councils and some of them will have to provide for taxation which again brings in a collecting agency which belongs to a reserved head. It is difficult in fact to imagine legislation on any subject which does not trench on a reserved subject, if only because it would impose additional duties on the executive officials who will be controlled by the executive council. This aspect of the situation has been dimly realized by the advanced critics of the scheme, and if the division of subjects is carried into effect, the scheme will run the risk of being denounced as a sham when people awaken to the real position.

(7) There is undoubtedly in many parts of India a feeling of apprehension in regard to the future administration of the transferred subjects. This is at the root of much of the demand for separate representation of communities which are numerically weak or politically backward and is due largely to the fear that the policy of the ministers may be influenced by racial and communal bias. The system proposed by His Honour would remove these apprehensions.

(8) In the same way His Honour's proposals would relieve the anxiety of the services as to their position in the future scheme of Government. That their anxiety is deep seated is shown by the desire of various departments that their subjects should be treated as reserved and by the growing movement in the Civil Service and other services to claim that on the introduction of the scheme they should be

given the option of retirement on reasonable terms, that was, His Honour understands, allowed to certain servants of the East India Company, when the administration was taken over by the Crown. This movement is not unlikely to spread; for the recent utterances of Indian politicians have increased rather than allayed anxiety, and the rapid elimination of the British element from the Government and the services will, as above indicated, tend to frighten away British capital and enterprise. The withdrawal to any substantial extent of British experience, brains and enterprise from India, at a time when, as shown in paragraphs 323—6 of the report and in the recommendations of the Industrial Commission, India stands most in need of them, would be a disaster.

(9) Under the system proposed in the Report, if anything goes seriously wrong in the transferred subjects it will be ascribed inevitably to lack of official support and co-operation. If there are no transferred subjects officially recognized as such, the position in this respect would be much the same as at present.

(10) His Honour's scheme admits of easy development in either direction. We are making a great experiment, and one which many people, well qualified to judge, regard as alien to the genius of India. It is a distinct advantage if a course of action can be found which, while conforming to the announcement of 20th August 1917, does not commit us to any position from which it would be difficult to withdraw.

The difficulties of practical working involved in the scheme proposed in the Report will be brought out in greater detail in the note which will be submitted later on the division of subjects.

The same.

23. The proposed division of subjects is likely to endanger the development of that spirit of association and co-operation on the part of Indians in the working of the administration which is essential to the growth of responsible government and of which there have recently been some welcome indications among the moderate section of Indian politicians. It must inevitably tend to make the advanced party jealous of the reserved sphere. His Honour's system gives the non-official ministers from the first a voice in the administration even of the reserved subjects. His experience during 33 years' service in India and particularly as Lieutenant-Governor of the Punjab during the last $5\frac{1}{2}$ years has convinced him that self-government in a form suitable to Indian conditions is more likely to be promoted by the policy of closer association of and co-operation by Indians in the government as a whole than by the partial separation of the Government into two distinct and possibly opposing sections—the official and the popular. The watchwords of democracy are at present much in vogue, but they make no appeal to the Indian *demos* because the spirit of democracy does not yet exist, and can hardly come into existence till racial, communal and caste distinctions are absorbed by the growth of a common policy of nationality. Those who look

deep below the surface can discern as yet but faint indications of such a growth.

The Lieutenant-Governor realises that his proposal will probably be criticised on the ground that it will not make the 'popular' minister fully responsible for the administration of any single subject. It will, moreover, make it more difficult for the Committee when it visits 10 or 12 years later to test the working of the 'popular' section of the government and to make confident recommendations for the extension of its powers. His reply to these criticisms would be that political progress is not always capable of being measured by political time-scale, that full responsibility postulates a wide, competent and representative electorate capable of enforcing its mandate—a condition which may not be attained for generations—and that, as already pointed out, the control of transferred subjects under the scheme proposed in the report will in practice be much less than the scheme promises at first sight, and that too much is expected from the ministers to start with. Until the scheme has been working for some time and the "popular" representatives have been able to acquire some actual experience in standing committees and as Under-Secretaries in the work of the administration, it is too much to expect of them—it would be too much to expect of any men in similar conditions—that they will successfully face the difficulties and efficiently discharge the responsibilities of their normal duties. Those functions can only be discharged by men specially trained and realising their responsibility to the Government, the Council and the electorate. The mere routine work will at first present serious difficulties; pressure will be brought to bear which they will find it difficult to withstand, for to start with they will be regarded as channels for the distribution of patronage and privileges by Government, and the system proposed in the report will try them beyond their strength. The alternative suggested by the Lieutenant-Governor, on the other hand, will encourage them to seek assistance from their more experienced colleagues and they will escape the temptation to pose as the champions and martyrs of a dangerously advanced policy or to strengthen their positions by forming party cabals or by an injudicious distribution of the spoils of office. Our zeal for establishing British institutions in India should not go to the extent of encouraging the ministers to regard themselves as working for a party rather than for the State.

But it is not only from the ministers that the scheme expects too much. It expects too much from the electorates and from the Council who will be called on to exercise powers and enforce responsibilities they do not understand.

As a fulfilment of the promise of August 20th, the Lieutenant Governor suggests that his proposal is not less adequate than that put forward by the authors of the report. He claims moreover that it is entirely consonant with the formulæ set forth in the paragraphs 188—191. It aims at the same goal as the scheme in the Report, but it secures a safer foundation and a more orderly development. Subject to the primary needs of law, order and good government, the Council, of which a majority will be elected, will have a dominant voice in legislation and in the allocation of funds. It will moreover be able to make its influence felt throughout the whole field of administration. The

non-official ministers will still be responsible to their constituencies and to the Council, but they will be judged rather on their general record as ministers than on particular measures, and will thus be saved from one of the great weaknesses of immature democracy. Finally, the Lieutenant-Governor ventures to claim that his alternative is not only in harmony with Indian tradition and ideas, which are strongly hostile to catastrophic changes and any complete break with the past, but also conforms to the genius of British constitutional developments, and embodies a form of government which may in time become "broad-based upon the people's will"—as that will assume definite form and expression—and slowly broaden down from precedent to precedent.

Means of securing the affirmative power of legislation.

24. *Paragraphs 247—254.*—The Lieutenant-Governor agrees with the authors of the Report in condemning the methods of securing the affirmative power of legislation which are criticised in paragraphs 247—251. He is on the whole in favour of the system recommended in paragraph 252, though he thinks it susceptible of improvement.

A number of those consulted have expressed themselves in favour of avoiding the expedient of the grand committee and of giving Government the power to secure legislation by a specified minority of those voting. The Lieutenant-Governor feels that this system would be anomalous and he is not aware of any precedent for giving a minority power to obtain affirmative legislation. Such a course is very different from the expedient which has been adopted in America and elsewhere of requiring a particular majority (two-thirds or three-fourths) for the carrying of a particular measure, and the Lieutenant-Governor would give preference to the system proposed by the authors of the Report on the ground that it is desirable to adhere as far as possible to constitutional forms.

There is one point in this connection on which the Report itself is not free from ambiguity. The scope of the reference to the Government of India in regard to a certificate given by the Governor is not clear. In the second sentence of the paragraph the certificate is described as one to the effect that a Bill dealing with a reserved subject is a measure "essential to the discharge of the Governor's responsibility for the peace or tranquillity of the province or of any part thereof, or for the discharge of his responsibility for the reserved subjects." Later on it is said that it will be open to the Council to request the Governor to refer to the Government of India the question whether the certified Bill deals with a reserved subject. In a recent letter to *The Times*, Mr. Charles Roberts, who was a member of the Secretary of State's delegation, has explained that the certificate will not be open to challenge on any ground other than that the Bill does not touch the reserved subjects. If this is so, as already stated, any Bill which contains penal clauses could be certified beyond fear of challenge so long as the Police and the Law Courts remain reserved subjects. Similarly a Bill dealing with transferred subjects, such as vaccination, compulsory education, or sanitation, which in the opinion of the Governor imposed extra work on reserved services or the enforcement of which was likely to lead to disturbance calling for the intervention of the police, could also be certified and the certificate would only be liable to challenge on the ground that the Governor's opinion was wrong.

This point will no doubt be explained in detail in the new Statute and in Instrument of Instructions, but it is, the Lieutenant-Governor thinks, desirable that the exact scope of the reference to the Government of India should be made clear beyond the possibility of misunderstanding, as soon as possible.

The Lieutenant-Governor further desires to point out that a considerable proportion of the Bills which will be certified will be of some urgency, and it is not desirable that the reference to the Government of India should necessarily have the effect of staying further proceedings in the grand committee. If the Bill was not urgent, the local Government would naturally wait for the decision of the Government of India before going on with the Bill. But it should, the Lieutenant-Governor thinks, be open to them to carry the Bill through the local council before orders are received on the reference to the Government of India, its operation being of course suspended till the matter is decided and the necessary assent and approval of higher authority received.

Thirdly, His Honour is strongly of opinion that the final debate, which it is proposed should take place in the full council after the Bill has been passed by the grand committee, would serve no useful purpose. The opinions of the members of the council on the general principles of the Bill will have been expressed in the preliminary debate, while the elected members of council are to have the privilege of electing their representatives to serve on the grand committee. These representatives will presumably be those best qualified to express the views of those they represent on both the principles and the details of the Bill. Their proceedings will be before the Governor-General when the Bill comes up for assent, and it seems quite unnecessary to give members a third opportunity of expressing their views, especially as under the scheme proposed they would on this third occasion be free from the sense of responsibility which attaches to them while sitting as actual legislators. Apart from the futility of this third debate, anything which encourages unreal and irresponsible debating is entirely opposed to the objects professed by the authors of the Report.

Fourthly, it should be possible to give a certificate at any stage before the passing of a Bill by the Council.

Finally, the Lieutenant-Governor is of opinion that the margin of safety allowed in paragraph 252 may in practice prove inadequate on occasions of wide-spread popular agitation or of factious combination between different parties though these would probably be very rare in the Punjab. He would therefore suggest that in case of necessity either the local Government should be permitted to nominate to the grand committee a bare majority consisting exclusively of officials or that the Government of India should be prepared to pass in the form of ordnances measures which the local Government has not been able to pass in the form of ordinary legislation. There must, he thinks, be some further power in the background than the present scheme provides and the fact that such power was in existence would help to obviate the necessity for its use.

Budget procedure.

25. *Paragraphs 255—257.*—The proposals regarding budget procedure have come in for a good deal of criticism, the main burden of which is that it exposes ministers to the odium of imposing fresh taxation. On this point the

Lieutenant-Governor thinks that the objection raised is not unreasonable. It should never be difficult to determine whether the fresh taxation is really imposed in the interest of transferred or of reserved subjects. In the latter case, the new taxation should be proposed by a member of the Executive Council; in the former, the task would fall to the minister. In both cases, however, the proposal would be a Government proposal.

Under the Lieutenant-Governor's scheme, the resolutions on the Budget would be given effect to so far as not inconsistent with the interests of law and order and good government.

Upper Houses.

26. *Paragraph 258.*—The Lieutenant-Governor agrees that the need for a second chamber may make itself felt as time goes on. The establishment of such a chamber would however be at any time a controversial measure bound to excite the opposition of the advanced party. He thinks therefore that it would be advisable for Government to take power at the present time to create a second chamber in any province where it is deemed desirable. If this power is taken in the legislation necessary to give effect to the reforms, the risk of agitation at the time when, if ever, it is decided to act on it would be appreciably diminished.

Future development.

27. *Paragraphs 260-264.*—The suggestion that after five years from the enlargement of the Council the Government of India should hear applications for the modification of the reserved and transferred lists of the province seems to the Lieutenant-Governor undesirable. It would lead to immediate and unceasing agitation and five years is not a sufficient period to test the capacity of the electorate. Under the scheme suggested by the Lieutenant-Governor the necessity for this reconsideration of the transferred subjects after five years would disappear.

It is further proposed that the Government of India should be empowered to direct after a period of five years that the ministers' salaries should be voted each year by the legislative council. The Lieutenant-Governor thinks it is too much to hope that things will have advanced sufficiently far in the short period of five years to justify this step. As an officer of long experience says, "The working of the first two councils will probably depend not so much on the choice of members of electorates to carry out a deliberate policy as on the personality of members elected by voters without any definite policy." The Lieutenant-Governor thinks it might be dangerous to give the Council power of removing a minister by refusing his salary until there has been time for the development of definite party politics. Until definite parties develop, the refusals of salary would generally be dictated by personal or factious considerations.

The Government of India.

28. The Lieutenant-Governor agrees generally with the remarks contained in *paragraphs 265—268.* He is in complete accord with the view expressed in the opening sentence of paragraph 266 that "pending the development of responsible government in the provinces, the Government of India must remain responsible only to parliament". This remark and all it entails, have excited more adverse comments than anything else in the report, but His Excellency the Viceroy in his speech at the opening of the Simla session made it clear that the Government of India and the

Secretary of State were resolved not to allow any division of subjects in the sphere set apart for the Government of India. In view of this decision His Honour does not think it necessary to deal with the demand for transferred subjects in that sphere.

He agrees further with what is said in *paragraph 269* as to the insufficiency of staff. At the same time he would draw attention to one misconception, which is apt to colour the views of English politicians in regard to the Civil Service of India. They naturally find it difficult to realise that the Civil Service in India differs *toto cælo* from the Civil Service to which they are accustomed at home, and it by no means follows that because the clerks in the Civil Service in England remain clerks and secretaries all their lives it would therefore be desirable to create a separate caste of permanent secretaries within the cadre of Civil Service of India. The principle is generally admitted in India, if not always acted upon that it is essential to the proper discharge of a secretary's duties that he should have ample first-hand experience of the work of administration in the Revenue and Judicial Departments, and he is doubtful whether the system towards which the authors of the Report appear to be inclined would not result in completing the divorce between the Central Government and the realities of administration which has some times been made a reproach. This question is not, however, of immediate importance, but as the inquiry foreshadowed in the Report is to be postponed like many other things till after the war it is probable that it will not be undertaken until after Sir Michael O'Dwyer has left India. He trusts that he will be excused on this account from expressing the views which he holds and on which as Lieutenant-Governor he has endeavoured to act.

Increase in Indian element.

29. *Paragraph 272.*—The Lieutenant-Governor agrees that the time has come when a second Indian may be appointed to the Governor-General's Council. The authors of the report do not claim that this extra appointment will in every respect add to the efficiency of the Council, and the remark that the appointment of one Indian member has proved of value in enabling the Government to have first hand acquaintance with Indian opinion perhaps indicates the point of view of the English statesman. No one familiar with Indian conditions could possibly regard the appointment of a single Indian as securing the advantage in question except in regard to a small circle of subjects and a comparatively narrow range of experience. But one great advantage which the Lieutenant-Governor anticipates from the appointment of a second member is that the opinions of the two will not only cover a wider field but will operate mutually as correctives. There must always be a tendency in the mind of a statesman fresh from Europe to regard every educated Indian whom he meets as representative of the "*general* body of Indian opinion" and if care were always taken to select the two members of the Council from opposite schools of thought the tendency would be speedily corrected.

The Indian Legislative Assembly.

30. *Paragraph 273*—Just as there has been a demand for a larger proportion of Indians in the executive council, so a number of those consulted regard the proportion of two-thirds of the Legislative Assembly, which the report proposes should be elected, as inadequate. The Lieutenant-Governor does not consider that there is any case for allowing

a larger proportion than this to be elected, as it is not intended to give the assembly final power in regard to any of the subjects dealt with by the Government of India.

Representation of the provinces.

31. *In paragraph 274* it is suggested that the Punjab should return seven members to the Legislative Assembly. It seems to the Lieutenant-Governor that in view of the growing wealth and political and military importance of the province and the fact that there are three great Indian communities to be represented, the Punjab is entitled to a more liberal representation than that proposed. He would therefore ask that at least 8 members be assigned to the Punjab. The Committee appointed by the Lieutenant-Governor to examine the question of franchise has not yet submitted its report, but the Lieutenant-Governor is inclined tentatively to suggest that the 8 members should be as follows :—

One Sikh representative,
One representative of the landed gentry,
One urban representative, and
Five rural representatives, one for each division.

The Lieutenant-Governor agrees that members of the Indian Legislative Assembly should not be designated "Honourable" and here too, as in the case of the members of the provincial councils, he would suggest that special precedence is unnecessary.

Means of securing the affirmative power of legislation.

32. *Paragraph 276.*—The power of making ordinances should be retained, and it should be used, as already suggested, in case of necessity, to enable Provincial Governments to secure legislation which they cannot carry in the Grand Committee.

The Council of State.

33. *Paragraph 277.*—The Lieutenant-Governor is not yet in a position to state his views finally on the composition of the Punjab element in the Council of State, but his present view is that one of the two members selected by the Provincial Council should always be a Muhammadan. The Sikhs will no doubt claim that one of the two seats should be assigned to them and two solutions seem possible. They might be given one of the six seats which it is proposed to reserve for special constituencies or it might be left to the Governor General in Council to nominate a Sikh. No ordinary community which numbered less than 1 per cent. of the total population could demand the first, but the Sikhs are not an ordinary community, and the Lieutenant-Governor thinks that it would be a suitable recognition of their political and military importance to assign them a special seat in the Council of State.

Legislative Procedure.

34. *Paragraph 279.*—The Lieutenant-Governor observes that once a Bill has been certified, it is not proposed to have a further general discussion in the Assembly. He agrees that it is unnecessary and would apply the same system to Provincial Councils, as recommended in the note on paragraphs 247—254.

An Indian Privy Council.

35. *Paragraphs 287—295.*—The proposal for the creation of a Privy Council for India has met with general disapproval, which is perhaps partly due to

misunderstanding. The name is regarded by some as of sinister omen. Others look with suspicion on any body which contains no elected element, and others again scent danger in the inclusion of Ruling Chiefs. The Lieutenant-Governor's own view is that a body constituted as proposed might be useful for the Viceroy to turn to for the purposes indicated in the Report, but he does not regard the proposals as one of any great importance. If a Privy Council is to be constituted he cannot see any reason for refusing to the members of it the title of "Right Honourable" which is allowed even to the Privy Councillors of Ireland.

Select Committee of Parliament.

The Select Committee of Parliament for Indian affairs has much to recommend it, but the Leiutenant-Governor sees no adequate reason why it should be drawn exclusively from the House of Commons.

36. The discussion of the proposals *seriatim* has made this letter very lengthy and has perhaps tended to obscure the particular issues in regard to which the Leiutenant-Governor finds himself unable to accord full support to the recommendations. I am therefore to explain that Sir Michael O'Dwyer's memorandum of 10th January should be referred to as giving a full statement of his views and as explaining his criticisms—

(*a*) in paragraph 9, on the proposed provincial executive;

(*b*) in paragraphs 13-15, on the composition of the Provincial Council, the franchise and communal representation;

(*c*) in paragraphs 20-22, on the proposed division of the functions of Government;

(*d*) in paragraph 24, on the proposed system of provincial legislation;

(*e*) in paragraphs 30-33, on the proposed Punjab representation in the Imperial Legislative Assembly and Council of State.

Memorandum on the question of Constitutional Reforms.

The main problem under consideration has been stated as follows:—

"How to pass, safely and by stages, from the present form of administration to responsible Government. That means a change in the principle of Government such as, except in the great British colonies which have derived their political traditions from Great Britain, has rarely been accomplished otherwise than by revolution.

The guiding considerations to be borne in mind are—

(1) that such transfer of powers as takes place should be real and not a sham;

(2) that it should if possible be such as not to invite immediate further demands;

(3) that the method adopted should, as far as may be, diminish friction and controversy and induce the habit of co-operation and a spirit of goodwill; and

(4) that the process should not result in the Government being compelled by clamour to surrender its administrative functions prematurely or to persons who cannot be trusted to exercise them efficiently or justly."

The only criticism I wish to make on this statement here is that the last consideration, which obviously must be the primary and governing one, should have come first, in which case (1), which in a way begs the question as stated in (4), would certainly have had to be re-stated in a more qualified form, for it remains open to discussion whether any *immediate* transfer of real power is justified by present considerations.

2. As a preliminary it is essential to take note of the present political atmosphere and general situation. This is the more necessary in view of the more recent developments of public opinion in relation to the questions at issue. Various schemes have been propounded for the construction of a political machine, but there is little or no discussion of how the machine is likely to work in practice or what results may be anticipated from it.

But at this stage the problem before us is a live issue, one of the most momentous that men of affairs have ever had to deal with, and one which has to be treated not as an interesting political speculation, but as affecting the destinies of hundreds of millions of people. The vast majority of those millions are at present admittedly incapable of forming a judgment of their own, and Government must remain trustee of their interests till they come to the age of political discretion.

3. The present position is that certain demands, which are daily growing more extravagant, for radical political reforms have been put forward by various politicians of India professing to speak for the people.

There appears to me to be a real danger of the question being regarded as one with which only the politicians on one side and Government

on the other are concerned. If the people as a whole, or a large majority of them capable of forming an intelligent opinion, asked for those reforms, then we should certainly concede them as we have done in the self-governing colonies, with due safeguards for the maintenance of British rule. But if it is clear that the demands emanate not from the mass of the people—whose interests are at stake—but from a small and not quite disinterested minority, naturally enough eager for power and place, we must, if we are faithful to our trust, place the interests of the silent masses before the clamour of the politicians however troublesome and insistent. Here I may quote Burke's warning: "Because half a dozen grasshoppers under a fern make the field ring with their importunate cries while thousands of great cattle, reposed beneath the shadow of the British Oak, chew their cud and are silent, pray do not imagine that those who make the noise are the only inhabitants of the field."

4. There are already signs that the masses though only dimly comprehending the aims of the advanced politicians are distinctly uneasy at the prospect of the transfer of power to them from the Sirkar, and that a large majority of what may be called the "classes" (the landed aristocracy, big merchants, etc.) as well as a considerable and growing proportion of the educated men outside the high caste Hindu literati, from which class the advanced politicians are mainly drawn, repudiate the aims of the latter and their claims to speak for the peoples of India.

These indications are most marked in the provinces where the Home Rule propaganda, which is now practically the creed of Congress and so-called All-India Muslim League, has been most vigorous. Pushed to its logical conclusion (see the recent utterances of Mrs. Besant as President of the Congress, of Messrs. Tilak, Pal, etc.) that propaganda is inconsistent with the maintenance of British rule and yet none of the politicians, who privately claim to be "moderates," has had the courage to disown Mrs. Besant's latest statement of her and their aims. Where the propagandists have come into the open and shown their hands, as in Madras, Bombay, Bihar and Orissa and parts of the United Provinces and Bengal, there we find on the one hand persistent efforts by their supporters to vilify the existing Government (thereby making out a case for revolutionary changes) and obstruct its officers; on the other, a growing comprehension of their ultimate aims and a steadily increasing hostility towards them.

5. I will quote a few examples of the aims of the advanced politicians:—

(a) Mrs. Besant's speach as President of the Congress puts forward a scheme of Home Rule, which leaves no place for British control except perhaps to keep the ring and act as "chucker out." Her thesis is that India claims freedom as her birth-right, and that tried by every test the present administration has been weighed and found wanting and must go. The generation (see her recent letter to the people of India) is to come through the *highly educated* classes of the Indian people who "will have power placed in their hands to carry out the resolutions they have been passing in the National Congress for 33 years."

(b) Mr. Tilak as usual is frank. His remarks on the self-government resolution at the recent Congress are reported as follows ("Tribune," 5th January):—

"Mr. Tilak then compared the position of India to a minor who had just attained majority. The master would not put him in possession of the estate *at once*, but would hand it over to him only gradually. The British Government practically said: 'We know we have to transfer our power, we shall do it gradually when our preparations are complete, at some future time, in the course of a century.' Mr. Tilak said 'that sort of defence ought not to be allowed to stand. We are entitled to possession *of the whole estate at once*. If we allowed you to share in that possession it was in the hope that you will clear off. *You must acknowledge that we are masters*."

(c) Mr. Jinnah, in the debate on simultaneous examinations for the Civil Service in the Imperial Council, 21st September 1917, said:—"Now, Sir, may I know why it is necessary to have a British preponderance in the Civil Services). Why? If, as we are contemplating, we are not going to have (I hope) for very much longer a bureaucracy that will be masters of the people but a bureaucracy that will be servants of the people—and that is what we are aiming at—we hope that the bureaucracy which, under the present constitution, are the masters and rulers, will be the servants responsible to the people and under the control of the people. If that is to be realised, may I, Sir, know why there should be a *substantial* element of the British."

(d) Perhaps in the circumstances the British elements in the service may find something reassuring in Mr. Malaviya's speech on the same occasion. Mr. Malaviya was good enough to say: "For these and several other reasons the preponderance (of the British in the services) will continue for some time. And we do not object to a *fair* number of Britishers being in the service *for some time*. The suzerainty does not demand the maintenance of a preponderating British element in the services of the country." The whittling down of the King-Emperor's sovereignty to a shadowy suzerainty is not without a significance of its own.

(e) The Raja of Mahmudabad presiding at the recent meeting of the All-India Muslim League says —

"We demand self-government by reason of our advance in education, our economic and industrial progress, our political capacity, and above all our inalienable right to unfettered development."

"Tribune," January 6th.

But even on that occasion the hollowness of the so-called concord and unity between the Congress and League was exposed by the resolution "that in view of the strong desire of the Muslim community to have definite provisions for the protection of its interests, the League urges upon the Government that

the following safeguards be adopted in the coming reforms." The safeguards are that Muhammadans are to be adequately represented in the public services and in Universities as well as in the Legislative Councils; the Urdu language and Persian character are to be maintained as hitherto, and Muhammadans are to be afforded protection and help in their religious rites without restriction or obstruction by any official or community.

Having regard to the recent history of the Muslim League since its association with the Congress, could there be a more instructive comment on Mr. Jinnah's arguments in Council and elsewhere that the Muhammadans had no fear of Hindu predominance, or on Mrs. Besant's fantastic dream of a United India where all castes, creeds and races. having shaken off the shackles of British thraldom, should live for ever after in perfect peace and harmony!

6. I will now quote a few extracts showing the alarm and hostility aroused amongst all classes of Indians by the claims—such as those above cited—of the advanced politicians :—

(a) The views of the non-Brahmans of Madras are admirably summarised in the following extracts from the speech of the Raja Zamindar of Telaprole presiding at the recent non-Brahman Conference at Tinnevelly (" Pioneer," December 22nd) :—

"We non-Brahmans are to remain and multiply in order that the chosen few may have subjects to rule; and the British are to remain to keep off external dangers by their military and naval forces and to suppress us if we should dare to oppose the orders of a Brahman oligarchy. Home Rule in other words is to be Brahman in policy, but British in the means used for enforcing that policy." Now such a policy, as the Zamindar of Telaprole very properly pointed out, is both impracticable and immoral. "Great Britain," he added "has the right to demand from us obedience and if necessary to secure it by force, provided she rules well and is willing to give us a share in ruling as we become fitter and fitter to bear the responsibilities. But I say emphatically that Great Britain has no right to say to us :—'I will put over you an oligarchy in which you have no share, which you distrust, which is socially contemptuous of you. I will let that oligarchy shape its policy as it pleases, and if you dare to dispute its authority, then I, even if I disapprove of its policy, will use the British army to enforce—non-British policy.'" And he clinched his argument by forcibly observing that "we are not cattle to be sold by one master to another, with the further humiliation of having the first master standing by with a bludgeon in case we object to be sold."

(b) The same views are expressed in equally emphatic language in various addresses presented to the Secretary of State in Madras. The Southern India Liberal Federation dissents from the Memorandum of the 19 members on the ground that those proposals if given effect to will "tend to weaken British authority in India and thereby jeopardise the

interests of the large and hitherto inarticulate masses of the country." They fear that "if Home Rule or self-government were granted to India at the present time, the Government would pass into the hands of a class oligarchy unfit either by traditions or training for wielding political power, and thus the interests of the masses would suffer." The Madras Dravidian Association similarly urged that "no reform should be introduced the weaken the British authority or to change the British character of the administration or to concentrate power in any one particular class." While the Autha Dravida Jama Sabha went so far as to state that "they would fight to the last drop of their blood against any attempt to transfer authority from British hands to so-called high caste Hindus who had ill-treated them in the past and would do so again but for the protection of British laws."

I have seen no more convincing refutation of the arguments used to mislead British statesmen and the British public that those who demand Home Rule for India are actuated by the loftiest ideals of democracy and are striving for the freedom and welfare of the masses now groaning under the iron heel of a foreign bureaucracy.

(c) Turning from Madras to Bombay and the adjoining Mahratta districts of the Central Provinces and Central India the position appears to be this. The Mahratta Brahmans of those areas, who look on the British as having robbed them of the mastery of India 100 years ago, are the staunchest advocates of Home Rule, as the first step towards getting rid of the British and regaining their own supremacy. For years they have been the most able, active and unscrupulous opponents of British rule and British influence in the Mahratta districts and States. On the other hand they are feared and hated by the Mahratta Ruling Chiefs, the Mahratta aristocracy and Mahratta peasantry, who look on them as having wrought the ruin of Maharashtra by filching the sceptre from the descendants of Sivaji, and the prospect of Home Rule or self-government with the Mahratta Brahman in power—as he inevitably would be—has aroused widespread alarm. If there is any one man to whom all Mahrattas look up and who is entitled to speak for the community it is His Highness the Maharaja of Kolhapur—a descendant of the national hero Sivaji, and known among Mahrattas and recognised by Government as the Chatrapati Maharaj—of which the word "Emperor" is the nearest English equivalent. His views on Home Rule and the oligarchy it would bring into power are quoted below, and it must be remembered that he was speaking with the restraint imposed on a Ruling Prince discussing the affairs of British India :—

"Pioneer," 30th December 1917.

Bombay, 28th December.

His Highness the Maharaja of Kolhapur, presiding over the eleventh Mahratta Educational Conference at Khamgaon yesterday, said that at present the great cry was about Home Rule. "The question of questions was whether they are fit for it. The Government was not at all averse to the advancement of subject races and had not prevented progress.

The Maharaja continued :—" I am inclined to agree generally with Lord Sydenham's views in this respect. Lord Sydenham's idea is that so long as India remains caste-ridden her people won't be able to derive the fullest benefit due to the introduction of Home Rule. For the present all that we have to do to attain our goal is to educate our people and thus prepare their minds It is necessary, therefore, for each community to do its best for its members. I may be allowed to say that I have encouraged different castes in their attempts to raise themselves. I have also tried to help leading Mahratta families in that direction. Let us do everything in our power to bring together all the different people in the common interest of material and moral progress of this great country of ours. If castes remain as they are, Home Rule in the sense in which it is meant will result in nothing short of oligarchy. This, of course, does not mean that I am against Home Rule Surely we want it. In the present circumstances, however, we must have the protection and guidance of the British Government until the evils of the caste system become ineffective.

"To prevent Home Rule from culminating in an oligarchy we must have communal representation at least for ten years. It will teach us what are our rights. Once we know them communal representation can be dispensed with. We have the sad experience of our municipalities before us. In these institutions the representation of the lower castes is only nominal. The mistake should not be repeated. The question of education in its many-sided activities ought to receive our first attention. It is not enough that we should be only agriculturists or soldiers; it is necessary that we should engage ourselves in trade and commerce and in the higher professions."

(*d*) Similar distrust of the Brahman ascendancy is expressed in much more emphatic language in the Mahratta Conference at Poona on December 17th.

Bombay Special Report.

The President Khasi Rao Powar [brother of the Maharaja of Dewas (J. B.)], in demanding a separate electorate for the Mahrattas said :—

" They were well aware of the religious ascendancy of the Brahmans over the other communities, particularly in the Deccan. It was to remove this injustice that they wanted separate electorates. The Brahmans had so far done nothing for them. No questions relating to Mahratta interests were put in the Councils, because there were no Mahrattas there. It was suggested by some that the franchise should be extended to Mahrattas who paid at least Rs. 10 as land

assessment......If this were done the Mahrattas would fall victims to Brahman influence."

The speeches summarised below are even more explicit:—

Speaking on this resolution, R. S. Bhaskarrao Jadhav of Kolhapur said: Government had announced that a system of responsible government was going to be introduced by progressive stages in India. Mr. Montagu had come to India to hear what they had to say in the matter of political reforms and it was, therefore, their duty to consider what they wanted and to place their wishes before him. Omitting Sind and Guzarat, the Mahrattas comprised more than a half of the population the remainder of the Bombay Presidency, and hence their interests required special safeguards. Hitherto Government had been responsible for their well-being, but there was going to be a change and, therefore, they wanted that their own men should represent their interests in the Councils, etc. Mr. Tilak was not a Mahratta and was not their leader. They knew the difference between the treatment they received at the hands of a European officer and that which they received at the hands of a Brahman officer. Brahmans were not of their flesh and blood; they did not accept water out of their hands or allow their dead bodies to be burnt side by side with theirs. Mahratta was a separate caste with a history of its own.

This resolution was seconded by R. S. Kale, who said that *Sirkar* was the cultivator's 'ma-bap,' and that Mahrattas wanted separate electorates because the Brahmans were people who would deprive the backward people of their rights.

Baburao Haibatrao Yadav of Satara said that once the Mahrattas handed over their *Raj* into the hands of the Brahmans, they would be made sweepers, and they should not make the mistake again of entrusting Mahratta interests to the Brahmans.

(*e*) I might multiply examples of similar expressions of confidence in the present system of administration and of apprehension of the results of the transfer of power to a literate oligarchy. I may instance the landowners of the United Provinces and Bengal, various Muhammadan Associations in different Provinces and the numerous classes and interests which, while hesitating to reject the policy to which they consider Government has committed itself, at the same time show their apprehension of what that policy may lead to, by pressing for special representation and other measures to protect their interests. I will not dwell on the strong representations made by non-official British interests throughout the Empire, by the Anglo-Indian community and by the Indian Christians (now four millions in number) because I do not wish to import any racial or religious feeling into the discussion. But I would invite special consideration of the pathetic appeals made in Bengal, Madras and Bombay by or on behalf of the unfortunate depressed classes, comprising some 50 millions of people, who fear that their upward

progress—slow and difficult enough in present conditions, but at the same time assured under an impartial British administration and stimulated by philanthropic missionary effort from the West—will be seriously imperilled if the British character of the administration is materially altered.

7. On the other hand it is clear that a great number of the deputations support what is known as the Congress-League Scheme, at least in principle, though many even of these demand modifications—often quite inconsistent with the basis of that scheme—to protect their communal, class, or sectional interests. There are good reasons for this—

(1) The Secretary of State's announcement was generally taken to mean—the many qualifications it contains being disregarded—that Government contemplates the *immediate* introduction of far-reaching reforms, and that public bodies and associations were expected not to discuss the policy but to formulate their proposals to give effect to it

(2) Most of these associations are organised and controlled by a comparatively small number of advanced politicians, chiefly lawyers—in the deputations from the Punjab the lawyer class outnumbered all the others collectively—who were already committed to the Congress-League programme.

(3) Even other associations, not primarily political, lacking either the time or the intelligence to frame schemes of their own, and finding a ready-made programme, which appeared to follow the lines of advance indicated by Government, hastily adopted that programme as their basis, and pulled it about to suit as far as possible their own particular views. Some of them, at least in the Punjab, have since begun to realise what they have committed themselves to and would probably be glad of an opportunity for reconsidering their position.

8. Here I may endeavour to explain the curious fact that the Punjab deputations as a whole have shown less hostility to the Congress League programme or the Home Rule movement than similar bodies in other Provinces.

The events of 1907, the Delhi Conspiracy Case in 1912-14, the *Ghadr* movement in 1914-15, had shown the dangers of violent political agitation among the many disorderly elements in the Province, and the Punjab Government had even before the outbreak of the war taken strong measures to prevent its spread. The war and the necessity of excluding any influences that would interfere with recruiting made a continuance of that policy essential. Hence the orders passed a year ago to exclude Messrs. Tilak and Pal, who were about to undertake a Home Rule propaganda in the Province, and other similar measures. That action had the approval and support of the great mass of the people, and till a few months ago political agitation was at a discount in the Province. Even the Secretary of State's announcement in August 1917 caused little stir.

The proceedings of September last in the Simla Council, the release of Mrs. Besant, the attitude of the Government of India in the simultaneous examination and in other debates, were however interpreted to

mean that the Government of India would not allow local Governments to interfere with their policy of conciliating the extremists. The small section of advanced politicians in the Punjab—hitherto quiscent—were encouraged to assert themselves, and to come into line with other Provinces.

Local branches of the Congress sprung into life and renewed their activity, and the invitation to frame political programmes for the Secretary of State's visit furnished them with a *raison d'être*. This was all natural and reasonable. But the above facts and the few weeks given to them and to other bodies to discuss the question at issue and formulate their views—which had to be submitted by the end of October—explain their parrot-like repetition of the only programme then ready to hand—that of the Congress-League.

Those facts also explain the ludicrous inconsistency of some of the local leaders in supporting various schemes—such as those of the Hindu Sabha, Provincial Congress Committee and Chiefs' Association—which differ materially on such radical issues as that of communal representation. Further, there is no repudiation of the Home Rule programme, as preached by Mrs. Besant and Tilak, because its methods and objects were then little known in the Punjab, which is, however, familiar enough with the revolutionary aspect of Home Rule as preached and practised by the now defunct *Ghadr* party.

9. The conclusion to be drawn from the preceding remarks is I think this: Indian opinion, in so far as it has been able to manifest itself even in provinces politically the most advanced, being so sharply divided (and as time passes the divisions are becoming deeper and more numerous) as to the line and extent of constitutional reform, it is the more necessary for Government to review the situation, in so far as it has disclosed itself, before taking any important steps forward. This is also demanded by the terms of the Secretary of State's announcement which makes it clear that the Government of India and the Home Government who are responsible for the welfare and advancement of the Indian people, shall be the judges of the time and measure of each advance. It must be assumed that the Secretary of State's announcement only supplements and does not conflict with previous pledges of the Sovereign, *e.g.*, the promise in Queen Victoria's Proclamation of 1858 "to administer its Government for the benefit of *all* Our subjects resident therein" and thereby secure their prosperity, contentment and gratitude.

It follows that the time and measure of each step forward in the path of political reforms must be such as to secure the welfare and advancement—not of the political classes alone—but of the Indian people.

10. I have felt it necessary to emphasise this principle because I can find no adequate recognition of it in the Government of India proposals. Perhaps it is taken for granted. But an obligation so solemn should not be kept in the background; and in its absence the proposals read as if the only question to be considered is how to satisfy the aspirations of a certain proportion of the educated classes. The latter no doubt claim to represent the masses, but perhaps after what has come to light in the last few months it is hardly necessary to expose the hollowness of the claim.

11. Apply any practical test—the prevention of religious riots, the composing of sectional differences, the raising of recruits for the combatant army or the Defence Force—when any of these questions is to the fore, the politician usually retires into the background. His influence for good is generally *nil*, but he can and sometimes does add to the trouble by injudicious or malicious interference.

It is often stated as an argument for self-government that there are no religious riots in Native States. For this there are many reasons, but a leading one is that the professional politician does not exist there or, if he does, is not allowed to interfere. The one recent and serious religious disturbance that I am aware of in Native States—between Sunnis and Shiahs in Bhopal—was fomented largely by the interference of a Muhammadan lawyer from Bombay anxious to advertise himself.

In the Punjab, though sectarian feeling often seems very high, it rarely leads to riot or bloodshed, because the local authorities know on whom to depend to compose matters. Those are not politicians but quiet men of local influence.

12. Even if we assumed that the English-educated politicians represent the views of all with English education—which is far from being the case—what following does that give them? In the Punjab at the census of 1911 about 75,000 persons, ·7 per cent. of the male (non-Christian) population, were returned as literate *in English*, and the total literate population was only 3·7 per cent. (6·5 per cent. for males). No doubt education in English and the Vernacular is rapidly advancing and we are doing all that is possible to stimulate it, but the Raja of Mahmudabad's claim that the advance in education already justifies the grant of self-government is still very far from being made good.

13. If we apply the test of property or stake in the country, the claims of the politicians to represent the masses appear still more futile. They represent perhaps a majority of the professional classes in the towns, but a much smaller proportion of the urban industrial and moneyed interests. Except as lawyers through their clients they have little knowledge or sympathy with the rural population—which is 90 per cent. of the total and in the Punjab contributes more than 90 per cent. of the revenue. The Punjab landowners pay as land revenue and water rates alone 6¾ out of the 9 crores of revenue raised within the Province, and probably in other Provinces the proportion is not very different, and it is almsot exclusively from them that the 55 per cent. of the Indian Army drawn from the Punjab is recruited. I do not know if any attempt has been made to obtain the views of representatives of the Indian Army in regard to the aims of the politicians and the reform scheme, but I have no doubt they would be most instructive.

14. It is the rural classes, therefore, forming 90 per cent. of the population, paying perhaps 90 per cent. of the taxation, and responsible almost entirely—if the British Army be excluded—for the defence of the country, that have the first claim to consideration in any scheme of reform. Hitherto the rural classes have been excluded from any real share in the administration by their better educated and better organized urban neighbours unless where Government has made special efforts on their behalf; they have also for the same reason been little represented in the Legislative Council. In so far as they are able to comprehend the changes demanded by the politicians they view them with misgiving.

Even though out of deference to what they believe to be the policy of Government, and out of a natural desire not to antagonise the party which that policy is likely to put in power, they may record a formal approval to some of the demands, that approval is generally qualified, and it is not difficult to see that they still look to Government to protect their interests. Their ideals—a strong and impartial government which will keep in check the forces of disorder, light taxation, a minimum of interference by Government and its subordinates (specially by their own countrymen) in various Departments, cleansing of the police, Government officers and courts from corruption, prompt and impartial justice, better facilities for education, medical relief and communications—are such as Government must sympathise with and endeavour to achieve; they have little in common with the lofty and often impracticable aspirations of the advanced politicians, though Mrs. Besant attempts to work them into her fancy picture of India under Home Rule.

15. The question has therefore to be faced—how far, when we have a programme of solid measure to carry out in fulfilment of our pledge to secure good government to all our Indian fellow-subjects, are we justified, in deference to the views of politicians pursuing Western political ideals, in imposing on India an exotic political system borrowed from the West, regardless of the traditions and ideals of the masses to whom the voters' register and the ballot box convey no meaning at present. It is notorious that now even in matters of local self-government closely affecting their interests the rural classes rarely exercise the franchise they possess and this apathy is a serious obstacle to the progress of local self-government. Representative institutions based on elective machinery assume (1) a reasonable level of political intelligence and (2) something approaching equal capacity for organization among the voters, (3) a fairly true representative character among those chosen to represent them, as well as (4) a moderately high standard of integrity and public duty. Those conditions do not exist at present, nor are they likely to be realized for many a long day, and meantime if we set up representative institutions on the assumption that they do exist the rural masses will be hoodwinked or out-manœuvred by the urban politicians. The latter in their hearts recognize this fact, and are eager to take advantage of it; the former are dimly conscious that they will suffer by the change and that the Government who should safeguard their interests is likely to desert them. It is to this I referred when I wrote in October last that the cry of democracy makes no appeal to the demos. It is not a genuine cry and the demos realises that. It is to this that Sir James Meston alludes in his memo. of October 24th when he writes: "It challenges our justification for stirring 95 per cent. of a nation out of their peaceful conservatism at the bidding of the other 5 per cent." My personal conviction therefore is that whatever form of political machinery you may devise, the rural classes will not for many years be adequately represented in your new political system, and apart from the other reasons this in itself is a powerful argument against a radical alteration of the existing system till such time as we are satisfied that rural interests are in a position to make their voices heard.

16. Here it would be interesting to endeavour to forecast the situation which will be created if we proceed at an early date to organise

Provincial administration on the lines of substantial elective majorities with direct control of legislation and the budget, direct control over certain departments of Government and indirect control of others subject to various vetoes and other safeguards.

The most probable first step would be that the popular leaders claiming to be the elect of "the people" would at once agitate vigorously for further power such as complete control of all branches of the administration. What hope would there be that the second and third considerations set forth in paragraph 1 above would be forthcoming?

As regards the administration generally it is reasonable to ask what would be the moral and material forces behind the 'popular' leaders? Would they in present conditions be able and willing to carry the people with them in passing measures which, though expedient, would be unpopular with the new electorates, as involving increased taxation, social reform, protection of tenants from rack-renting, etc.? Or would they be inclined to take the line of least resistance, bow to popular prejudices and clamour and endeavour to strengthen their own position by establishing class or family cliques, by creating posts to provide patronage for their supporters, by short-sighted measures for reducing taxation or by agitating for the introduction of long-term or permanent settlements?

17. We may also well ask ourselves—what will be the attitude of the new popular Government to the services (British and Indian) and of the services to them? Will India be able to draw as in the past on some of the best brains and character of the United Kingdom which have done so much to raise the standard of the services in the past, particularly by the example of integrity and devotion to duty for duty's sake? Ask any British official who would ordinarily look forward to an Indian career for one of his sons what his present views are.

Will the Indian personnel have the same respect for and confidence in their new masters as in their old, or will they endeavour to push themselves not by merit and efficiency, but by suppleness and intrigue? And will they succumb more than at present to the Oriental temptation to regard office as a means for acquiring illegitimate gains? Here I may mention that within the last six years four members of the Provincial Civil Services have been dismissed for corruption—two of them after judicial conviction. Of those four, three had entered the service by competition, and the fourth was a Barrister who had failed for the Indian Civil Service examination. It is the class from which these men are drawn, that will provide recruits for the Indianized bureaucracy of the future. Will the elected majority in the Council—however upright and honourable their intentions—have the moral courage to fight against nepotism and corruption which even the present Government finds it difficult to control? As a comment on this I may instance a recent case in which several of the most prominent public men in the Punjab—including members of the Imperial and Provincial Councils—petitioned Government to release an official of the Irrigation Department sentenced to 3 years' imprisonment for habitual bribery and extortion, because he belonged to a very respectable family. The petitioners doubtless had no sympathy with bribery in the abstract, but their hatred for the sin was not strong enough to prevent them sympathising with the sinner.

Any one who has seen the inner workings of the official hierarchy in an average Native State will be able to supply a partial answer to the

above questions. Our administration comes in for deeper criticism—some of it deserved—from our Indian subjects; but from a long and direct experience of Native States in all parts of India, I have never yet found any British-Indian subjects who were willing to become subjects of an adjoining Native State—though I have often endeavoured to arrange such transfers in Rajputana, Hyderabad, Central India and the Punjab—even where sentiment and administrative convenience were all in favour of such a transfer and when the British Government was, therefore, most anxious to effect it.

18. The British position in India is not so secure that we can lightly make rash experiments with it. India has hitherto been held together by the authority of a Government which was regarded as strong and impartial and therefore commanded to a greater extent than any previous Government the confidence and support of all its classes. History shows that there are no people so easy to rule as long as they know how they stand and what their Government expects from them. On the other hand, there are no people so quick to be affected, especially in these days, by any hesitation or indecision on the part of their Government.

Do anything to weaken or shake the authority of that Government and you will be appalled to find how small is the margin of safety—how thin the partition that divides order from disorder. We have had unpleasant but salutary reminders of this in the recent Bihar riots and a few years ago in the *Ghadr* movement and dacoities on Hindus in the South-West Punjab.

In the face of those warnings we seem now to be drifting into what is known as Birrellism in Ireland, truckling to the extremists, encouraging the idea that we are going to hand over the administration to them (this at least is the impression conveyed to the people, and Indian gentlemen have seriously asked me if there would be any British Officers left in India 25 years hence), thereby alienating the loyal and moderate people and driving them—for they have to safeguard their future position—into the hostile camp. The mistaken belief of English politicians that Ireland could be governed successfully by an understanding with the Nationalist M. Ps (even though these were till lately fairly representative of the majority of the Irish people) has driven hundreds of thousands of the Irish peasantry—always suspicious of the politicians with personal aims—into the ranks of the extremist *Sinn Feiners.* Is there not reason to fear that a similar attempt to govern India by conciliating the Nationalist members in the Imperial and Provincial Councils may one day lead to similar disaster, which in India would be infinitely more serious than in Ireland?

19. It is now proposed, and the wisdom of the policy is not open to discussion, to transfer step by step the functions of Government to representatives of the Indian peoples, thereby establishing eventually responsible government. That decision is one of the most momentous that any Government has taken. In endeavouring to carry it out we have no precedents to guide us.

In the self-governing British Colonies—so glibly cited as an example— self-government was granted in response to the demand of a fairly homogeneous people, on much the same plane of political intelligence, and with traditions and ideals common to one another and to the

motherland. Notwithstanding those favouring conditions the transfer was not in all cases effected without internal strife and friction.

In Ireland, with an area and population equal only to an ordinary Indian division, with an intelligent and prosperous people, and only a single line of political and religious cleavage, we have not yet succeeded in solving the problem of restoring the self-government that the country enjoyed in one form or another down to the union of 1800.

The grant of self-government by the United States to the Philippines—after 18 years of occupation—is often quoted by Indian politicians as an argument in their favour. I have found it difficult to ascertain the nature and extent of that experiment, but it is one which has still to justify itself and which is believed to have been dictated partly by the desire to exclude the growing Japanese influence by encouraging Filipino ideals. Moreover, the Filipinos number only 10 millions and are fairly uniform in race, language and religion.

The problem in India is infinitely more complex. It is not necessary to dwell on the varieties of race, language, religion, traditions, etc. But one broad fact should be brought out. For some 800 years India had Hindu Governments, Muhammadan Governments and Sikh Governments over various parts of the Continent, but never an Indian Government. The British Government in India is the first Indian Government known to history and, as such, whatever its defects, it appeals to the imagination of the people as something stupendous and marvellous. The special quality they admire is the skill with which we have induced diverse and often hostile races, castes and creeds to sink their differences and have succeeded in yoking them to the service of the administration under British control and supervision. In view of the fissiparous and particularist tendencies which have revealed themselves so rapidly during the last few months, have we any guarantee that as the British Government abdicates certain functions the old struggles between Hindu and Muhammadan, Brahman and non-Brahman, Mahratta and Rajput, Sikh and Pathan for general or local ascendancy will not in one form or another be renewed?

An Indian ex-Member of the Secretary of State's Council informed me confidentially in 1908 that in the previous year, when conditions in the Punjab and Bengal were very unsettled, the head of a great Rajput tribe in the North Punjab, famous for its loyalty and martial prowess, said to him "The British are loosing their grip of the sceptre, you and I should be prepared to fight for our place in the sun."

The various Provincial reports show that something similar is now being said in parts of India (*e.g.*, Bihar and the Deccan), where the Home Rule propaganda is most vigorous; and the organised dacoities 3 years ago by the Sikh revolutionaries in the Central Punjab and the Muhammadan jacquerie in the South-West were due to the belief that our power was badly shaken. Even to-day not a few extremists, including Mr. Tilak, declare that the Government Reform policy has been dictated by the German successes in Europe, our weakened military position and the need of drawing on the man-power of India to save us from disaster! It is for obvious reasons essential to avoid creating the impression—which Indians are so quick to form—that political reforms are a hasty concession by a weak Government to agitation and threats, rather than the well-considered gift of a strong Government,

anxious to share its power more and more with the people as they give proofs of their desire, fitness and sense of responsibility to an extent that justifies such association.

20. A frequent argument for radical and immediate changes is that with all our professions we have done so little hitherto in the way of political reform. The pace may appear slow to "impatient idealists," and I have endeavoured to show that when we are not sure of our ground there were and are good reasons for it. But an impartial survey of the advance made in the present generation and especially in the last few years shows steady and substantial progress wherever we have been able to see our way clearly ahead.

Within the last ten years we have given Indian majorities in all the Legislative Councils, appointed Indian Members to all the Executive Councils, and to the Secretary of State's and the Privy Council, and secured Indian representation on the Imperial War Cabinet and the Council of the Empire.

Turning to specific measures, the objectionable features of the cotton duties have been abolished, indentured labour to Crown Colonies stopped, the grant of King's Commissions in the Army has been accepted in principle, and certain appointments have already been made, and the modification of the provisions of the Arms Act based on racial distinctions has been taken in hand. The reorganization of the various services is steadily proceeding and will be further stimulated—even at the sacrifice of efficiency—by the orders passed on the Report of the Public Services Commission; while Indians are now rising steadily to the higher posts in the various services.

Finally, though Indian opinion does not as yet *control* the Government—nor is it advisable that it should till political education and true representation are more advanced—it exercises a great and steadily growing influence in all branches of the executive and may be said to have—where unanimous—a decisive voice in legislation. We certainly are not standing still and it would be folly to allow the taunt to compel us to a hasty advance.

21. We have, however, now gone a long way forward in deciding that the progressive realization of responsible Government is the goal of our policy. We should at the same time make it clear that while we are taking steps towards that goal, the measures taken must not conflict with our solemn pledges to the Indian people generally, and that the association of political leaders in the Government must depend not only on their showing a sense of responsibility and loyal co-operation with the Government but also on their proving that they are the representatives of the people.

So far those conditions are wanting, and that is all the more reason why Government should remember that its responsibility to the hundreds of millions, who are still incapable of self-determination but in so far as they are at all articulate show confidence in the existing system and the superior *personnel* and look with misgivings on any radical change in either, is immeasurably greater than the expediency of meeting the political aspirations of a minority—aspirations which in the case of many are incompatible with the maintenance of British rule.

Here I may note that the various deputations of the advanced politicians say very little as to the existing evils which their schemes if accepted would remove, or of the practical advantages they would confer on the masses. Like Mrs. Besant in her fancy picture of India under Home Rule, they adhere to unproved assertions that things are now wrong and that Home Rule like a magic wand will put everything right. These sophistries should delude no sane mind, and the readiness with which they are accepted and swallowed by the adherents of the Home Rule programme goes to prove the general absence at present of any such sound political instinct among those classes as would justify the immediate transfer of any large measure of power into their hands.

22. Our accepted policy, however, is to pave the way for such a transfer, and therefore while keeping responsible Government as the ultimate goal, the immediate steps indicated are in my opinion—

(*a*) To begin training the masses for the responsibilities of self-government—a long and difficult process in every Oriental country—by extending education, developing local self-government, admitting more Indians to the higher ranks of the service. All these are practical schemes, but require for their solution the sustained efforts and co-operation of Government and the educated classes who can therein find one outlet for their energies and do much for the moral and political progress of their fellow-countrymen.

(*b*) At the same time to train the political classes for their future responsibilities (1) by closer association with Government through the Standing Committees of the Legislative Council; (2) by enlarging the present electorates and Councils; and (3) by giving more power to the local Government and Provincial Councils through measures of Financial, Legislative and Administrative devolution. The result of those measures will be not only to give increased autonomy to Provincial Governments—an end most desirable in itself and likely to quicken healthy political progress—but also to enlarge and strengthen enormously the influence of provincial opinion on those Governments and prepare the way for their ultimate control—subject to the restrictions called for in imperial interests—by provincial opinion as it acquires form, organisation and political capacity.

23. Thus far I would be prepared to go at present, but further political reform should follow not precede the general training and education referred to in (*a*) and (*b*) above. If we attempt to force the pace faster than this we shall endanger the ordered progress of the community as a whole which it is so important to secure. We shall at the same time be establishing an Indian oligarchy lacking the efficiency, integrity and impartiality which constitute the moral force behind the present British administration and more than outweigh its deficiencies—an oligarchy which being unrepresentative, out of touch with the masses, and inexperienced in the conduct of administration, even with the best intentions will inevitably blunder, will probably give rise to a new sense of injustice among the masses and (witness the

dramatic collapse of the Irish Nationalist party, and of the Russian Intelligentsia) will break down in the first serious crisis.

24. Throughout we have to keep before us the solid interests of the masses of the people. They have not spoken yet. Till they are in a position to speak, *i.e.*, after they have acquired such modicum of political intelligence and acumen as will enable them to understand the broad issues, and till they know what they want and by what measures they propose to get it, we are not, in my humble opinion, entitled to commit ourselves to far-reaching and irrevocable political changes in order to silence the clamour of the advanced politicians of whom some are out for their own personal interests, others desire to make British Rule impossible, while those and they are not few, whose aims are honest and loyal, are still generally lacking in political experience in sense of responsibility and in the right to speak for the masses.

25. Hence, I am opposed for the present—

(1) to the grant of an elective majority in the Councils, because at present—and for a long time to come—we have nothing approaching a representative electorate;

(2) to the grant to the Councils of control over the budget, as a whole—beyond what has already been proposed by this Government—because the Councils are not and for a long time to come will not be representative of the rural masses, which provide perhaps 90 per cent. of the revenues and should have a predominant voice in deciding on the expenditure;

(3) to the grant to the Councils of general control of the administration because they are neither truly representative of the masses, nor are they yet qualified by experience for such a responsibility.

M. F. O'DWYER,

Lieutenant-Governor, Punjab.

The 10th January 1918.

No. 874-T.—1-L.7, dated Maymyo, the 17th October 1918.

From—The Hon'ble Mr. W. F. RICE, C.S.I., I.C.S., Chief Secretary to the Government of Burma,

To—The Secretary to the Government of India, Home Department.

I am directed to reply to your letter no. 957, dated the 15th July 1918, received here on the 25th July 1918, in which you ask that the Government of India may be favoured by the 1st November 1918 with the opinion of this Government on the proposals contained in the Report by His Excellency the Viceroy and the Secretary of State on Indian Constitutional Reforms, with particular reference to their applicability to Burma.

2. The scope of the reforms suggested in the Report does not, for reasons explained therein, extend to Burma, and it is left open to this Province to work out an independent line of progress on terms, suited to Burmese conditions, ideas and sentiments. On receipt of the Report, the alternatives before the local Government were either to await the outcome of the scheme for India as finally decided upon by Parliament after criticism in England and in India, or to set to work at once on

a scheme suitable for Burma, designed to carry out the promise of the announcement in Parliament of August 28th, 1917, framed on lines differing probably from those proposed for India but such as the peculiar conditions of this Province would indicate as necessary and desirable. After consulting selected officers, His Honour decided to follow the latter course, and I am now to describe the action actually taken.

3. It has to be remembered that a demand for reforms on the Indian model has not been a spontaneous or indigenous growth in Burma. But for the visit of the Secretary of State and the joint investigation of the problems of constitutional reforms made by His Excellency the Viceroy and Mr. Montagu, it is exceedingly improbable that the people of Burma would have made any definite move themselves in the matter of political reforms of their own volition and initiative, for the Committee appointed by Sir Harcourt Butler had only recently reported against any marked extension of the elective system in Burma. The sudden developement which took a deputation to Calcutta to lay the views of Burma before the Viceroy and the Secretary of State was partly induced by Indians themselves, partly inspired by the dread among Burmans that too rapid an advance towards Home Rule in India might place Burma under the domination of Indian politicians, and partly stimulated by the proper pride of Burmans that they should not, by an attitude of quiescence or indifference, mark themselves down as inferior in capacity to Indians. The considerations urged in paragraph 198 of the Reforms Report left it free to the Government and people of Burma to to think out a scheme and make proposals themselves for the kind of reforms that were suitable and would prove acceptable.

4. Upon the publication of the Reforms Report, the Lieutenant-Governor allowed a short interval to elapse for the general trend of opinion among Burmans to declare itself, and as soon as it had become manifest that Burma was anxious to have a share in the Reforms Scheme, His Honour, in a speech in Durbar on the 14th August (of which I am to attach a relevant extract), announced his intention of holding an informal conference with Burmans of various shades of opinion, and promised, after further consulting the most experienced officers in the service of Government, to frame and publish a scheme for general criticism, after the receipt and consideration of which formal proposals would be submitted to the Government of India, embodying, as far as possible, the views both of the Government and of the people of Burma. In accordance with this promise, the Lieutenant-Governor recorded a preliminary minute on the subject, which he circulated to selected officers, and held two conferences at Rangoon before the end of August with Burmans who represented both the conservative and advanced schools of thought. The collection of these opinions, and their consideration, has not yet been concluded, and after the scheme has been framed and published a sufficient interval must be allowed for public criticism.

The Lieutenant-Governor regrets that it is impossible for him to submit this complete scheme by the 1st November, the date named by the Government of India. He hopes that the Government of India will recognize that the formulation and discussion of the scheme is a matter of considerable difficulty, and it is most important that the scheme when submitted to the Government of India should have been carefully

deliberated upon and thoroughly examined by all those most interested, official and non-official. Furthermore, the scheme when submitted, will contain the rough details at all events of the system of franchise to be adopted and will put forward alternatives believed to be more suitable to Burma with respect to reserved and transferred subjects and with reference to several other features of the scheme devised by the Viceroy and the Secretary of State for India. In the long run, therefore, the delay involved in the submission of the scheme need not entail any corresponding delay either with regard to the ultimate decision or with regard to the time at which the Reforms Scheme for Burma may be expected to come into effect.

The Lieutenant-Governor is reluctant to bind himself down to any exact dates in this matter, but he has every hope that a scheme will be got ready for publication before the end of November, but the further time that will elapse between puplication and the submission of the final proposals must depend to a large extent on the nature of the criticisms received and the extent to which the scheme requires to be modified in order to meet such criticisms. He is most anxious that no unnecessary delay should occur and the scheme ought to be ready for submission to the Government of India in the middle of January, or it may be even a little earlier, but he would not like to guarantee these dates in case the discussion of the criticisms should take a longer time than is now anticipated.

Extract from the speech delivered by His Honour the Lieutenant-Governor at the Durbar, held at Government House, Rangoon, on the 14th August 1918.

* * * *

The third sphere is the sphere of the legislative council and the general machinery of Government. Progress in this sphere must inevitably depend to a considerable extent on the progress attained in the other spheres; but, as I said before, all training in this sphere cannot be at a stand-still while progress in the other spheres is being awaited. More caution is, however, necessary and, provided that there can be no mistake as to the direction in which our reforms lead, I do not think that the vast majority of Burmans will find any fault with the adoption of a policy of caution. The exact steps to be taken and the kind of machinery to be created are for conference and discussion, and I am naturally not prepared to lay before you any definite scheme at this stage. But there is one thing quite certain, and that is that our legislative council must be enlarged and that it must contain a substantial elected element. I propose, now, to have a friendly and informal conference with representative Burmans of all schools; the old-fashioned and conservative, those with official experience, and also those of the young party who are filled with ardour and hope for Burma's progress and are most anxious that she should not be left behind among the progressive nationalities of the Empire. When I have discussed this whole question informally with all these shades of Burma opinion, and have been able to consult the most experienced European opinion available in Burma, I propose to publish a scheme for general public criticism in which every class of the community can participate and make any representation it

may choose about its particular interests. The Government of India have asked that our scheme from Burma shall be submitted by the 1st November, and I have every hope that we may be able to comply with that request. I am anxious that all should be consulted and that the scheme which will be submitted from Burma may be stamped with the approval both of the the Government and of the people of Burma.

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No. 514-II-7, dated Rangoon, the 30th November 1918.

From—The Hon'ble Mr. C. M. WEBB, I.C.S., Officiating Chief Secretary to the Government of Burma,

To—The Secretary to the Government of India, Home Department.

With reference to the correspondence ending with my letter no. 374-T.-II—7, dated the 17th October 1918, I am directed to forward a Minute by His Honour the Lieutenant-Governor on the proposed Constitutional Reforms, so far as they affect India proper

2. His Honour's proposals regarding a scheme of reforms for Burma will follow latter.

Minute by Sir Reginald Craddock, Lieutenant-Governor of Burma, on the Report on Indian Constitutional Reforms.

In this Minute, I am not dealing with the case of Burma, which I have under separate consideration. It would only confuse issues to combine in a single reference a discussion of the considerations which are common to India and Burma and those in which Burma is sharply divided from the other provinces of the Indian Empire. The observations which follow, upon the scheme of constitutional reforms in regard to India proper, are those which suggest themselves to me on such experience as I have gained during a long service in India.

2. I will not spend time in dwelling at length upon the special circumstances which make India at the present time so unpromising a field for the introduction of democratic institutions. They have been described and analysed with admirable lucidity by the eminent authors of the Report, who have in no way minimised the difficulties that confront the constitution maker in India. When they come, however, to the exegesis of their own constructive proposals, they seem more sanguine regarding the results that are to be expected from the grant of an instalment of responsible government to large numbers of inexperienced voters than their analysis of the circumstances would appear to justify.

3. The British Government in India has hitherto regarded the protection of the weak against the strong as its paramount consideration. It has frequently been charged with forgetting this fundamental object by the imposition of systems and institutions upon the peoples of India which are exotic on oriental soil and out of harmony with the history, traditions and sentiments of the land. The system of education and the system of civil law introduced by the British Government are cited as instances in point. There is truth in this allegation, for outside the regions of Hindu and Muhammadan law, which have been left severely alone indigenous models have either been absent, or so much out of conformity with western notions that their development instead of their replacement has been found, or has been thought, impracticable. Where there was no western model, *e.g.*, in respect of the land revenue system, the indigenous system has been developed and improved. Where alien systems have been introduced, the justification of the Government has always been that its measures were designed to secure the greatest good to the greatest numbers, and that the people *sua si bona norint* would approve. The scheme of constitutional reforms now spread before the gaze of a bewildered proletariat will eclipse anything hereto attempted in the way of exotic introduction. It is an endeavour to thrust upon an uninterested multitude a scheme of responsible government which they neither desire nor comprehend.

Hitherto, in all old countries, an extension of the franchise has followed pressing demands made by the classes desiring that extension. In India an attempt will now be made to introduce this new franchise, not in difference to the demands of those most affected, but without their consent, and it may even be said against their wishes. It will be pushing the assumption of Implied consent of the people *sua si bona norint* to the most extreme degree that has ever been attempted before in the

history of any nation. By the class that demands reforms, the introduction of democracy is alleged to be their aim. But if the truth be told, they are in favour of democratic institutions mainly because they are making an appeal to a democratic nation and they could not very well call for democracy and then leave *demos* out. Their chief interest in the reforms is centred in the powers that they expect to gain over the executive. A broad franchise and responsible voting in its true sense by rural electors is not at all the central idea of their demands. As long as their own class will furnish the legislative councillors who will exercise the desired control, it is immaterial to them whether these represent few or many voters. If they were to be convinced that an extension to the many would weaken the influence of their class, they would oppose that extension as the classes in all countries have done until the demand of the masses could no longer be resisted.

4. The authors of the Reforms Report have disclaimed entirely (paragraph 144) any idea of conceding power to a clamorous few. They rest their scheme upon its intrinsic merits. They write,—"The placid pathetic contentment of the masses is not the soil in which Indian nationhood can grow, and in deliberately disturbing it we believe that we are working for her highest good." The greatness of the conception will be readily admitted by all, and it is the duty of everyone to use his best endeavour so that the policy announced in Parliament in August 1917 may become both a reality and a success. If this policy should succeed, it will be the greatest achievement in the history of the British nation. If it fails, it will have been a glorious failure. But, if it should unhappily fail, then the greatness of the motives which inspired it cannot save it from condemnation. It is, therefore, the bounden duty of everyone who honestly desires a successful issue to examine this scheme lest hasty or defective building should ruin the stability of the whole structure. The authors of the reform proposals have recognised the difficulties before them and have included restrictions and safeguards in their scheme which they hope will suffice to protect it during the period of transition. But I fear that they have placed excessive reliance upon the rapid realisation of their responsibilities by ignorant and untrained electorates, and I submit that they overlook the retarding effect upon that realisation of the very safeguards which they find it necessary to impose.

5. The habit of mind of the people is the result of inherited traditions that are centuries old. The masses, when suffering from a sense of grievance, rely first upon petitions and secondly upon the remedy of force. The lesson that they have to learn is to discard this remedy in favour of the remedy of the polls. If the British Government of India were to withdraw entirely from the country there might be some chance of the lesson being learnt, provided always that the educated classes were in a position to maintain the "Pax Britannica" over the land while the training was in progress. So long, however, as the British Government finds it necessary to retain the supreme control over the most important affairs of the State, and so long as British officers, in considerable numbers are concerned in the administration of the country, the vast majority of the peoples of India in their present stage of education will continue to hold the British Government responsible both for good and for evil. If dissatisfied with their lot, they will not blame either the members whom

they have returned or themselves for returning them. They will lay the blame on the British Government itself for permitting these things to occur when it seems obvious to them that if it chose it could have ordered otherwise. In this belief they will be encouraged by their own elected members, who will very naturally wish to detach from their own shoulders the onus of all shortcomings and to place the burden on the shoulders of the Government. The authors of the Report give these masses credit for perceiving the relations of cause and effect with an intelligence and perspicacity which cannot, I fear, be expected of them. If dissatisfaction should grow acute and result in disturbances, the unpleasant duty of suppressing these will fall not upon the elected members but upon the Government. The display of force will convince the people more than ever that the Government is all-powerful to redress the wrongs from which they believe themselves to have suffered. I hold then, that the diffusion of education among the people at large must be a condition precedent to the transfer to them of responsibilities which in their present uneducated state, they cannot possibly be expected to realise. The education to which I refer is not merely the education of the primary school, but the education that is derived from improvement of agriculture, industry, trade, commerce and communications. It is contact with these things that stimulates the wits of the masses. The primary school by itself is ineffective.

6. I submit that these considerations are entitled to much weight in the decision of such questions as direct voting by rural electorates or the continuance of communal representation. Indirect voting, or communal representation may be out of place in any ultimate scheme of responsible government; but it does not follow that these are also to be condemned as devices suitable for a transition period during which the education of the people and the softening of racial and religious asperities can be carried out. The arguments used in paragraphs 227 and 228 of the Report are based on the assumption that communal electorates will perpetuate and encourage cleavage and put off the day when members of the State will think of themselves primarily as citizens of the State and not of any smaller unit. If general electorates of citizens, framed without any reference to race or creed, were actually found to produce representation in rough proportion to the different races and creeds concerned, then *cadit quæstio*, and I grant that the process of obliteration of racial and religious differences would be rapid and continuous. But who in India believes that such electorates can produce such all-round representation? And if a refusal to grant communal electorates should result in important classes being left unrepresented altogether, or represented most inadequately, then the result can only be a sense of grievance and resentment which must increase, and not allay caste, class or race feeling. The authors of the Report have, for reasons which they have explained, made an exception to the general rule in the case of Muhammadans, and in the case of Sikhs in the Punjab. I will later on, discuss why an exception to this general disallowance of communal electorates should also be made in the case of Europeans and Anglo-Indians. It is, of course, obvious that communal electorates cannot be multiplied indefinitely; but the case for their introduction must stand not upon theoretical or *a priori* grounds but upon the actual results obtained by experience of general electorates.

7. Again as regards direct election. Everyone will admit that direct touch between the member of a legislative assembly and the man who elects him is the closest form of responsibility that can be devised. But this must fail in its object if the gulf between the electors and the elected is so wide that the electors are unable to comprehend the measures and policies with which the elected members are dealing and even the initial fact of their own responsibility. A chain of electorates may, therefore, prove necessary in the early introduction of the people to responsible government which, as the intelligence of the voters at the bottom is increased, can in time be discarded in favour of direct relations. The authors have, however, rejected this particular expedient on theoretical grounds. The great difficulties which face them are set forth in Chapter VI of the Report from paragraph 146 onwards; but the grant of the direct vote to the electorate is regarded by them as the one infallible remedy for all these difficulties, and I submit that they have assumed the infallibility of this remedy on grounds which to me at least appear insufficient and illusory. The recently appointed committee to discuss these questions of franchise will no doubt endeavour to find a solution of the difficulties, perhaps by modifying the system of direct elections or by confining the dimensions of the electorate within limits which must deprive them of a democratic character. That is their task, and I will do not lwell further upon this aspect of the case beyond remarking that if the result of direct elections by the new electorates is to return radical politicians as representatives of a thoroughly conservative people, then the success of the scheme as representing a reality will have been jeopardised at the very outset.

8. From these general observations on electorates, I turn to the constitutional scheme itself, and to the other constructive recommendations put forward by the authors of the Reforms Report. I will confine my criticisms to a few of the most important features of the scheme. The proposals, so far as they relate to Provincial Governments, may be summed up as follows:—

(1) to do away with one man government;

(2) to give each province—

(a) an Executive Council of two members (one European official and one Indian non-official) to deal with branches of administration reserved to the Executive Government;

(b) a minister, or ministers, chosen from among the elected member of the legislative council, to deal with branches of administration which are transferred to popular control.

I would submit that the authors of the Report, in condemning the continuance of government by a single man as incompatible with responsible government—a statement which no one will be found to challenge—appear not to recognise that an Executive Council as hitherto known makes no advance towards responsible government. It is purely a bureaucratic institution which may be and sometimes is more impervious to outside advice than a single head of a province, who, if he stands alone, must perforce consult many advisers, but with an Executive Council, is limited to two or three statutory councillors whose advice he

is virtually bound by law to accept. The passage from a single ruler to a responsible government is just as easy, or just as difficult, as the passage from an Executive Council to a system of responsible ministers. In the scheme of reforms, the continuance of an Executive Council in any province or the endowment of any new province with such a council is merely a safeguard. It in no way conduces to the progress towards responsible government but is merely a brake on the rapidity of that progress. Such council governments as have already come into existence in India, to judge by the writings of the press, have aroused no more satisfaction than the non-council governments which preceded them, and it is even more certain that the executive side of the new governments under the reform scheme will come in for even more violent attack than its predecessors, while, if the popular side of the new government does not win approbation, the whole blame will be ascribed to the obstinacy and obstruction of the Executive Council. One of two things must happen. Either the executive side, by resisting encroachments by the popular side will arouse violent agitation, or by submitting to these encroachments will abandon all those very safeguards which it has been specially charged to maintain.

9. In paragraph 223 of the Report its authors have explained that at all costs they desire to avoid any treatment of the problem which would involve a sudden change from irresponsibility to complete responsibility. Such a change, they believe, would submit the mechanism of government to so violent a shock as to cause it to break down. Yet, this is just what would happen in respect of the transferred subjects if the transfer were really as complete as the authors of the Report intend. All experience, however, warns us that no such complete transfer is possible. It it were possible, it would cause that shock which the authors desire to avoid. As it is not possible, it will cause merely great disappointment and friction. For the truth is that administrative subject cannot be ring-fenced in this way. Though a department may be relatively unimportant, some of the problems which it presents may be of the first magnitude. Each administrative subject touches another at such frequent points of contact, that its complete isolation is impracticable. Under such a scheme one side of Government must frequently be in conflict with the other side. Dyarchy of this kind must inevitably lead to disaster. Again, it is unfair to expect that full-fledged ministers can be found to hand fit to take over these new and heavy responsibilities. A division, a district, a sub-division, a tehsil, is never entrusted to inexperienced hands, and to entrust whole departments of State to non-official ministers without a long period of training is to court failure. The traditions of a responsible ministry cannot leap into existence at a word of command. The existing administrative system of India has been evolved as the work of many generations of experienced officials, and by a very slow process of decentralisation, and I would look to the establishment of a new constitutional system as a part of a scheme of responsible (as distinct from bureaucratic) government, not by a sudden and large committal of powers to untrained hands, but by a gradual process of progressive delegation so that accumulated experience and traditions will in time provide expert constitutional ministers. This process will

go on *pari passu* with the process of educating electors, so that the way may be prepared for the creation of mutual responsibility between electors and elected. What is required is a process by which advance will be smooth and scarcely perceptible. Sudden jerks and jolts must at all costs be avoided.

As I am no longer charged with any duties in connection with the provinces of India proper, it would be an impertinence on my part to attempt to elaborate a scheme of Government for Indian provinces generally or for any particular one of them. But in the scheme which I have under preparation for Burma I shall hope to provide machinery for that progressive delegation of powers on which I lay so much stress, and that scheme when submitted must form the constructive side of this minute.

10. The reform scheme goes on to frame a constitution for provincial legislative councils, and suggests that machinery by which such councils shall be supreme in regard to transferred subjects, while various devices are introduced whereby the will of the executive government shall prevail in respect of matters which are considered to be of such great importance that they cannot be safely entrusted to the will of an untrained assembly. The scheme contemplates an elected majority with only such official element upon the council as shall ensure the views of Government being adequately represented, and with a small nominated non-official element in additionby which representatives of creeds or communities which have failed to secure adequate representation by election shall find a place upon the assembly. Just as I dislike dyarchy in the executive government, so also would I disapprove of it in the case of legislative councils, and for the same reasons. If certain decisions of the executive government are to prevail over the legislative assembly, it should be because of their paramount importance to the welfare of the community and not because of the head under which they fall.

In order to ensure that measures which are of primary importance shall pass, the authors have devised a system of reference to a Grand Committee of the council. The constitution of this Grand Committee and the procedure under which the business before it shall be regulated, have been described in paragraphs 252-4 of the Report. The authors are conscious that it will make for delay, circumlocution, and possibly obstruction, and that it is also liable upon occasions to fail in its object. But they have not been able to find a satisfactory substitute for securing the passage of legislation to which the majority of the council are opposed. Let it be supposed that the council consisted of 80 members, with 15 officials upon it. Then the Grand Committee would be composed of 41 members, 21 nominated and 20 elected. Among the 21 nominated there would be 14 officials and the 20 elected would be elected by ballot. *Ex-hypothesi* this procedure would not be used unless the Government thought that they could not carry their measure with a simple majority of the council. Under the Grand Committee scheme, therefore, they are driven to resort to packing by framing a Committee in which their supporters will be represented by their maximum strength while their opponents will be reduced by more than half. I would prefer, in these circumstances, a simpler procedure by which, in respect of certified measures, the will of Government shall prevail unless a contrary motion

is carried against it by a specified majority of two-thirds or three-fourths of the council. One naturally hopes that such certification may seldom prove necessary, and that experience will show that reasonable measures can always secure a majority in the council. But, if it is necessary to provide that the will of the executive government is to prevail over a bare majority of the council in respect of certain measures it seems well to provide for this in the simplest and clearest terms, without resort to complex procedure suggesting a desire to disguise this crucial fact under a rather thin semblance of constitutional machinery. Even with this provision, requiring a majority of two-thirds against the Government to cause its defeat on certificated measures, there might arise circumstances in which passions ran so high that the nominated non-official members of the Grand Committee or of the council under the scheme that I have proposed, would be intimidated into voting against the Government by the abuse and ridicule to which they were exposed in the press, and it would constitute a negation of the scheme of a gradual development of responsibility, with reserved powers to the executive government in the background, if these powers were rendered nugatory by an organised opposition which was for the time unwilling to listen to argument or reason. To meet this improbable, though not absolutely impossible, contingency, the Act of Parliament should provide for an ultimate power of suspension of the constitution under which the Secretary of State, on the recommendation of the Governor-General in Council, might, with the consent of Parliament, direct the suspension of the constitution in a particular province and the appointment of a nominated legislative council by the Governor thereof for such period of years as Parliament might think fit. I do not wish to be misunderstood as believing that such contingencies are likely to arise. There are many other intermediate steps which might be taken to avoid a deadlock of this extreme character. For example, if Government were defeated by a two-thirds or three-fourths majority, as the case may be, the Governor might have power to stay proceedings absolutely until the questions at issue could be further examined. The authors of the scheme propose to give the Governor power to dissolve the council in such circumstances. A new council would then be elected, though it is somewhat doubtful whether any satisfactory issue of the controversy between the Government and its opponents would result from this course. If, however, it were tried and a council less obstructive were to be elected, this would be the most satisfactory solution. Apart, however, from the dissolution of the council, there are always possibilities of a compromise when something like a deadlock has arisen. Further examination might convince the Government that there were points in their legislation which it would be wise to concede, or might persuade the opposition that some of its objections were based on unsubstantial grounds. If all these intermediate steps failed, if there was no room for compromise, if on the dissolution of the council a new council even more violently opposed to the measure than its predecessor were returned, then only would resort be had to the power, which I have suggested, providing for the suspension of the constitution with direct consent of Parliament. Were such a contingency to arise, it would mean that either the executive government or the opposition had displayed a most unreasonable obstinacy, and I cannot help feeling that a compromise would be effected before such a

state of deadlock ever arose. The ultimate provision in the background would have its advantages as a check on extreme and unyielding obstinacy by either party, and it is quite certain that the Government at least would not carry its opposition to such a pitch unless its case were so clear and so convincing that it had no fear of the verdict of Parliament.

11. The device by which a particular majority should be required to defeat a measure of the Government, which has its parallel in the American constitutions, is sometimes pronounced impracticable because, although effective on the negative side to prevent a measure which Government strongly disapproved being passed in spite of it, it would be an awkward and unusual device where an affirmative measure introduced by the Government itself was in issue. It is said that there are no precedents for carrying affirmative measures by a minority of a legislative assembly though there are precedents for refusing to carry a measure unless backed by a particular majority. The distinction is not without weight; but if the question be closely examined, the same objection lurks in the scheme of a Grand Committee which the authors of the Reforms Report have designed. If a Government measure is carried in the Grand Committee against the will of the majority of the council, then we shall have affirmative legislation put through by a minority of the legislative council. To revert to the example given above of the working of a Grand Committee, a piece of affirmative legislation might be carried by 21 votes out of 80, namely in the teeth of a majority falling short by one vote of three-fourths of the whole council. And if the Grand Committee consisted of only 40 per cent. of the council, then an affirmative measure might be carried by 17 members out of 80! I respectfully prefer the more direct method that I suggest.

For the purpose of carrying affirmative legislation on the plan that I have suggested, it is necessary to recognise that we are dealing with a matter which has been certified. It is a matter which we are not prepared to leave to a bare majority of the council; it is a matter in respect of which the will of the executive government must prevail. We are, however, willing, except in extreme cases, to abide by the will of the council if the majority against the Government attains a certain size, and we can remove all awkwardness by adopting the following procedure. When a bill has been certified it will, after its introductory stages, be referred to a Select Committee. On that Select Committee, as has generally been the case with the Imperial Legislative Council, the Government supporters have a bare majority. I would permit the non-official element to be elected to the Select Committee if the council so desired. My experience of many such Select Committees has been that discussion of a matter round a table has produced far more satisfactory results than a debate in council, and it is probable that a measure to which there was strong opposition in council would undergo many changes at the hand of the Select Committee. When the Select Committee had completed its report, the Government would consider that report and might refer back to the Committee certain points, after further consideration of which the Bill would take its final shape as that to which the Government was committed. The constitution should provide that, in the case of a certified measure, the Bill as thus amended, would become law unless further amendments to it were carried in the

legislative council by majorities of two-thirds or three-fourths as the case might be. It would be unnecessary, therefore, to move any affirmative measure; the Bill would be discussed in council in its preliminary stages. It would have been overhauled and examined, and probably amended, by the Select Committee in deference to the views put forward by the opposition. The Government would have then decided what its will was, and this will would prevail unless contrary motions were carried by the required majorities. This procedure would entirely save the necessity of duplicating debates in the manner provided by the Grand Committee scheme.

To sum up, then, I hope that it may rarely be necessary to certify any measures at all; but if the state of feeling in the council should render it desirable to certify a measure, I hope that it may not be necessary to go beyond the precaution of requiring a specified majority to defeat the Government. If, on such a defeat, the Government should consider it absolutely essential to persist in its course, then there are the various intermediate suggestions of further compromise, the dissolution of the old and election of a new council, and so on, to avoid a supreme deadlock. Finally, only in the last resort would a reference to Parliament to suspend the Constitution be necessary. The nature of this ultimate remedy would, I think, be an insurance against excessive bureaucratic obstinacy on the one side, or unreasoning and purely factious opposition on the other. Both sides would hesitate before they pressed their opposition to such a point.

12. I now turn to the subject of European representation upon the Councils. The discussion in the press has somewhat obscured the issue. The question is one of the introduction of responsible government; between a bureaucracy and the will of elected representatives. The personnel of the bureaucracy may require large revision; but that is entirely a different matter. The contrast is really not between Europeans and Indians, but between officials and non-officials. The presence of official Indians in the ranks of the bureaucracy or of non-official Europeans in the ranks of the elected representatives has no direct concern with the process of establishing responsible government. Each has to be considered on its merits, *viz.*, given a bureaucracy, how many Indians ought there to be upon it, and given responsible assemblies of non-officials elected by the people at large, how many Europeans should there be on them. The emiment authors of the Report admit that European interests should be represented, but they prefer to leave this representation to nomination although they admit that "their (European) material interests in the country are out of all proportion to their numerical strength and that it might be argued in their behalf that inasmuch as unlike all other communities, they are not an integral part of the population of India, no departure from principle is involved in giving them separate representation of their own." I venture to submit that in this passage the authors have given stronger reasons for including Europeans in the elected element, the course which they reject, rather than for excluding them, the course which they propose.

The following considerations appear to me to outweigh the general objections to communal electorates on account of which the authors of the Report have determind to prefer nomination to representation in the case of Europeans. Unless the announcement in Parliament is to be

used as a mere euphemism for the gradual extrusion of all British influence and interest from India until they finally become extinct, it must be assumed, as the authors of the Report have actually assumed, that this responsible government in India will partake of the nature of a partnership in which the British elements from time to time existing in the country will retain a place commensurate with the peculiar relation that the British nation occupies with respect to India. Europeans will then presumably for a long time to come if not always, be a relatively small but relatively very important section of the community in India, who cannot possibly be represented, even to the extent possible to Muhammadans and Sikhs, by means of general electorates. If this view is correct, it follows that as authority is gradually transferred from official to non-official hands, the non-official European must be permitted to enjoy his share of the transferred authority as belonging to a small but very important section of the people at large. The capital that Europeans have invested, the future capital that they will command, the services that they have rendered in the past and will continue to render in the future to the development of the country, make it imperative that they should not be ignored in any scheme of responsible government. To deny responsible representation to the European in India is to exclude the one class of all others that is best fitted to comprehend its obligations and to exercise its privileges. Such an omission will surely be entirely inconsistent with the policy announced in Parliament and it would be a grave injustice to exclude from all share in constitutional representation the one class on which the obligation of compulsory military service has been laid.

Further, the authors of the Report lay great stress on the necessity of maintaining the British character of the administration. But it is not only by keeping in the Service a certain proportion of Englishmen that this leaven of British character can be maintained. Surely the new legislative councils, to whom control over the executive is gradually to be committed, should contain a similar leaven. And the introduction of this leaven into those councils becomes increasingly necessary as the official element upon the councils gradually diminishes to the point of virtual disappearance. Unless, therefore, adequate provision is made for the British character in the legislative councils of the country by giving due representation to the non-official European community, the British touch will be entirely eliminated from those councils and such small British element as ultimately remains in the Services will be rendered entirely impotent by the fact that it has no representatives upon the councils. The continuance of such constituencies as Chambers of Commerce, Trades Associations, etc, do not at all suffice to fill this want. The representatives so elected are merely mouthpieces of the Chambers and Associations to which they belong. They regard themselves as charged with special commercial interests only and not with the general government of the country. But, although European commercial interests are of great importance, they by no means represent the entire European interests of the country. The interests of the European lawyers, medical men and other non-official Europeans of the professional classes, as well as Europeans, official or non-official, who have settled in the country after retirement from service or business, cannot be ignored. And there is another very important European interest. I allude to the European Services and the British Army in India. Hitherto, all European interests

in India have been left mainly in the hands of the European official members in the Government or in the Services. Under a scheme of responsible government, as propounded by the authors of the Report, the European official will gradually disappear from the councils and be greatly diminished in the Services, and it will increasingly devolve upon the non-official European in this country to play his share in safeguarding the interests of his fellow-countrymen in the various Services. Under any scheme of franchise which the Committee now working on this subject may devise, it is certain that the Indian in Government Service will be given a vote. It would be entirely inconsistent, under a scheme of responsible government in India, to deny to the European official a vote which the Indian official of the same Service will enjoy. If the European official were given such a vote, it would be most unsuitable that he should exercise it upon the general electorate for electing Hindus, Muhammadans, Sikhs, Parsis, Indian Christians, etc., upon the council, but it would be appropriate that he should exercise his vote in favour of non-official Europeans representing European interests generally in the country. I consider, therefore, that the proposed omission of European representation, as such, with a special electorate of their own, constitutes a serious blemish in the Reforms Scheme now under criticism in this country, and that this omission should be repaired by constituting European electorates in every province.

13. The case of the Anglo-Indians stands on a somewhat different basis. They have not contributed much hitherto to commerce, industry and the development of the country. In that respect they have a weaker claim than the European for special representation. On the other hand, they have a stronger claim than the European in that the vast majority of them are born, live their lives, and die in India. As a class, they attach great value to their British origin, and, for as long as it is possible to foresee, they will continue to hold those sentiments and to be separate from the general population of the country. It is most unlikely that they would ever be able to secure adequate representation at the hands of general electorates, and they are undoubtedly entitled to have representatives of their own in any scheme of responsible government that may be introduced in India. When new constitutional machinery is in process of erection, the special relations of Great Britain to India must find, not only transitional but permanent recognition within that scheme; otherwise the announcement in Parliament is merely tantamount to the entire relinquishment of concern in Indian affairs by the British nation. The present is the right moment for including in constitutional schemes due and adequate provision for the representation of European and Anglo-Indian interests and for the expansion of that representation *pari passu* with the gradual elimination of European official authority in the management of Indian affairs. If the opportunity that now exists for establishing and laying down this principle is neglected, its establishment at a later stage will be rendered exceedingly difficult if not impossible. How many desirable things there are that are pronounced impossible at a particular time which could, and ought to have been done had the necessity for them been foreseen at a much earlier stage!

14. I turn now to the proposals of the Report regarding the Indian Civil Service. In paragraph 314, the authors of the Reforms Report state that if the recommendations of the Public Services Commission

were accepted and recruitment of 25 per cent. of the superior posts were made in India, then to attain this all-round percentage of 25 per cent. the proportion in say, Bombay, Bengal and Madras, would have to be considerably more than 25 per cent. because in Burma certainly, and probably in the Punjab, it would be much less. They also point out that it would be unwise to create a demand in excess of the supply, and lay stress on the fact that the present quality of the Services must be maintained. In paragraph 317, however, they propose that 33 per cent. of the superior posts should be recruited in India, and that this percentage should be increased by 1½ per cent. annually until the periodic Commission is appointed which will re-examine the whole subject. Casual observation might suggest that, after all. the authors of the report were only raising a 25 percentage to 33, a comparatively small difference. Under the proposals of the Public Services Commission, a periodic Commission of enquiry visiting India ten years after the introduction of the scheme would find 25 per cent. of the recruits of ten years and under composed of Indians. Under the scheme put forward by the authors of the Report, they would find that the Indian element in the annual recruitment would have reached 48 per cent. for certain. An additional percentage representing the number of Indians admitted by the open competition in England would have to be added in the case of both schemes. If this additional percentage be assumed in each case to be 10 per cent. then the proportion under the first scheme would be 35, under the second 58 per cent. Furthermore, on the considerations urged by the authors themselves, in paragraph 314 of the Report, the proportion of Indian recruitment in say, Bombay, Bengal and Madras, might by that time be anything up to 66 per cent. or even more than this.

Then as to quality. Once let it get about in the United Kingdom that the Indian Civil Service no longer offers the career that it used to do, and there will be a falling-off, both in the number and quality of the European candidates seeking admission to it. This falling-off must inevitably be accompanied by an increase in the number of Indians who win places in the open competition, so that even at the end of the ten years intervening before the first periodic Commission examines the subject, the constitution of the Service might have passed entirely beyond control. The authors of the Report hope to maintain a due proportion of Europeans in the Service by offering certain attractions in the matter of pay and pensions. But these purely mercenary attractions may prove a broken reed if in the general estimation of the public, the prestige of the Service has seriously diminished. The experience gained of the Indian Medical Service suggests caution. The proposals, therefore, in their present shape would seem to endanger the essential maintenance of the British character of the administration to which the Public Services Commission and the authors of the scheme themselves attached such great importance. I do not wish to disparage at all the character and attainments of those Indians who have hitherto entered the Indian Civil Service by the road of open competition. But it has always to be remembered that they represent the selection of the fittest so far as existing tests admit, and the comparative fewness of their numbers in the Service has required them to follow the high standards and traditions of that Service or fall out. If a large proportion of the

Service is in future to be recruited in India, and the European proportion recruited at home is also likely to suffer both in quality and numbers, the British traditions and standards, which have made a name for themselves all over the world, cannot be maintained.

There is another most important consideration which ought not to be ignored. Although the educated classes very naturally would like to absorb all the posts in the Indian Civil Service and other Services for themselves, this desire is not shared by the people at large and it is certainly not shared by the thousands of Indian soldiers who have fought and bled in the war and who, in civil life, are drawn from the peasant class. The people at large like to have, as the head of their district, an officer whom they regard as entirely unprejudiced and to whom Hindus and Muhammadans, Sikhs and Rajputs, Brahmins and non-Brahmins, high castes and low castes can appeal as an impartial arbitrator. I have often sympathised with an Indian officer occupying this position, who because he is either a Hindu or a Muhammadan, a Brahmin or a man of lower caste, is suspected generally most unjustly of prejudice or favour. So long, therefore, as the masses of the people do not desire a large influx of Indians into the Services, there are strong arguments in favour of a more gradual increase in the Indian element than the authors of the scheme contemplate. The high quality of the Service would be better preserved under the new conditions if the alteration was less violent.

In these circumstances I would recommend the adoption of one of two methods; either fix the percentage at 25 per cent. for the next ten years, or begin it at 20 per cent. and increase by 1 per cent. each year rising to 30 per cent. If the hitherto proportion is taken as averaging 10 per cent. this means doubling the present proportion immediately and trebling it in ten years. If, however, the number of entrants by the open competition is included in the total, and only the balance made available for Indian recruitment, then the figures might be raised by 10 per cent. on the total, *i.e.*, 35 per cent. throughout the period of ten years, or 30 per cent. rising to 40 per cent. in the ten years' period. At the end of that time the periodic Commission would review the subject and advise as to the further progress justified. But it must be remembered that even after ten years the new element introduced into the Service would consist of men of from one to ten years' standing only, regarding whom it would be exceedingly difficult to pronounce how far they were going to succeed when entrusted with higher responsibilities in the shape of the charge of districts, departments and divisions. It would only be when the entrants under the new system had held positions of responsibility for some years that judgment could be pronounced on the success of the experiment, and as to whether it was proceeding too slowly or too quickly. The scheme recommended in the report may prove to have been a gamble in *futures* with no possibility of retreat.

I do not propose to go into the question of what proportion of Indians should be admitted into the various other Services. They all are for separate consideration in connection with the report of the Public Services Commission. But there are some of the younger Services which are still too much in the pioneer stage to make a rapid change in the personnel and source of recruitment of any advantage to the interests of

India and Indians themselves, and as the Public Services Commission themselves pointed out, technical and professional instruction within India must be widely extended and greatly improved before Indian candidates can be found in sufficient numbers to replace European candidates without sacrificing the interests of the community at large to an unnecessary degree. The extent to which Indian-owned businesses and concerns in this country are still obliged to maintain Europeans on their staff is a significant warning against too violent a disturbance of the personnel of which these Services have hitherto been composed.

15. The proposals of the Reforms Report, so far as they relate to the Government of India or the Secretary of State and his Council, do not very greatly concern the individual province. The Government of India will themselves be in the best position to judge how the control that they exercise can be safeguarded in their own councils so that they may discharge their responsibility to Parliament. But there is one aspect of the case for maintaining the supremacy of the Government of India which does not seem to have been touched upon in the Reforms Report. Apart from the necessity of having a central body able to enforce the will of Parliament in matters concerning the Empire as a whole, or touching the Imperial concerns of India itself, as well as those provincial matters over which full control cannot entirely be committed to the Provincial Government, the strength of the case for maintaining the supremacy of the Government of India must rest upon the basic fact that without the Government of India holding sway above, the unification of India into a single nation is absolutely impossible. The greater provincial autonomy which the Reforms Scheme contemplates, will make for disintegration, not for union, and but for the cement of British control exercised through a strong Government of India, the various administrative entities and the Native States must split asunder. The Indian nation, to the separate existence of which all the educated classes at present aspire, is bound up inseparably with British rule. Were this British control to be withdrawn from the separate countries, races, administrations and states of which India is composed, she would fall to pieces like a temporary federation of Balkan States, or the various racial entities of the Austrian and Russian Empires. If the future of India lay in the direction of the creation of a number of independent nationalities, the case might be different. But this is not the policy of the announcement in Parliament. The announcement in Parliament contemplates one single India forming an integral part of the British Empire, and a single India, controlled entirely by Indians themselves, cannot for a very long time to come, fall within the range of practical politics.

The authors of the Report have, in paragraph 323, asked the question whether it is conceivable that India's only surviving connection with the Empire will be found in the presence of British troops for the purpose of defending her borders. They answer that question by saying that the last contingency cannot be contemplated. They cannot imagine that Indian self-respect or British common-sense would assent for a moment to such a proposition. At least so long as the Empire is charged with the defence of India, a substantial element of Englishmen must remain and must be secured both in her Government and in her public services. However much, therefore, the policy of the Government of

India may be influenced, and should be influenced, by the wishes of the numerous peoples who inhabit the country, the unifying influence of British control must continue unimpared until such a fusion of races and such a disappearance of racial and religious cleavages has actually come to pass as no one living at the present time can possibly envisage.

16. Although in this Minute I have ventured to criticise freely several of the detailed recommendations in the Report, I am aiming at the same objective and in sympathy with the same principles, as those which have guided the eminent authors of that epoch-making document. It is from some of the methods and processes recommended that I venture to differ; all I desire to urge is that the process of transfer should be more gradual and the march forward more under control, that the even balance between the many conflicting interests, the sum total of which go to make up the commonwealth, should be more effectively maintained, and that the continuance of the British partnership under the changing form of Government should be adequately secured.

Perhaps I may be permitted, in conclusion, to reproduce a formula which I drew up in 1916, more than two years ago, as representing my conception of the aims before the British Government in India. It ran—

"The task before the British Government of India is to train the people, so that, under the British leadership, they may ultimately become fitted for the fullest measure of self-government which is alike most truely representative of her diverse races and classes, most suitable to their circumtances and traditions, and most conducive to the abiding welfare of her Princes and her peoples.

"The rate of progress attained towards the realisation of this ideal must depend upon the improvement and wide diffusion of education, the softening of racial and religious differences, and the acquisition of political experience.

"The desired training has already been in progress, but the time has now come for a marked acceleration of the advance—

"*firstly*, by the committal of more responsible functions to local bodies, and by the development of urban and rural self-government;

"*secondly*, by increasing the proportion of Indians in the superior branches of the public services whereby they may better qualify themselves for the higher offices of the State, and generally to bear a more important share in the administration of the country; and

"*thirdly*, by the progressive extension of the franchise for the legislative councils, and by the increase from time to time of the elected elements in their constitution, so that, as these become more truly representative of the people, they may also be entrusted with higher responsibilities.

"It is by India's steady progress along these several roads, simultaneously with the diffusion of education, the development of her agriculture, her commerce, her arts and her industries, that, under the guidance of the British Government, her political destiny may best be shaped, and the future place of India, her Provinces and her States, as one of the family of nations com-

posing the British Empire, may most worthily be designed, most safely be directed, and most harmoniously be evolved."

I venture to hope that there is nothing in this formula which is out of accord with the spirit of the great pronouncement in Parliament of August 1917, nor indeed, with any of the principles adopted by the illustrious authors of the Report. Though views may differ as to processes and times, the end before all is and must be, one and the same.

REGINALD CRADDOCK,

The 29th November 1918. *Lieutenant-Governor of Burma.*

No. 4110-P., dated Ranchi, the 10th November 1918.

From—The Hon'ble Mr. H. McPherson, I.C.S., Chief Secretary to the Government of Bihar and Orissa,

To—The Secretary to the Government of India, Home Department.

I am directed to refer to your letter no. 950, dated the 15th July 1918, on the subject of Indian Constitutional Reforms, and to submit, for the information of the Government of India, the opinion which the Lieutenant-Governor in Council has formed on the proposals contained in paragraphs 212 to 295 of the Joint Report prepared by His Excellency the Viceroy and the Secretary of State for India.

2. When the local Government were invited last year in Sir James DuBoulay's letter no. 666, dated the 8th September 1917, to submit their views on Indian Constitutional Reforms, they reviewed the conditions of the problem in Bihar and Orissa and stated their recommendations at considerable length in my letter no. 3668-C., dated the 31st October 1917, of which an extract (paragraphs 4 to 12) is annexed. The Lieutenant-Governor in Council does not desire to travel over the whole of this ground again but he considers it necessary to draw attention to his previous statement of the conditions of the problem as it then presented itself and to state briefly what were the recommendations he then made, because local conditions remain unchanged in all essentials; and although the general political situation may necessitate the adoption of a more advanced policy than was recommended a year ago, this necessity has been created from without rather than from within, and the unaltered circumstances of the Province indicate at least the need for caution in the application to it of experimental measures of reform.

3. The construction proposals which His Honour in Council put forward a year ago were summed up under the following heads :—

(1) the largely increased admission of Indians into the superior services which have considerable influence in shaping legislation and regulating the conduct of the administration ;

(2) the inclusion of a larger number of Indians in the Executive Councils, both Imperial and Provincial ;

(3) the liberalization of local self-Government and its emancipation as far as possible from official control and guidance, so that the political instinct may be developed in the masses and non-official Indians may be trained in administrative work ;

(4) a great extension of primary education, the encouragement of the co-operative movement, and the development of industrial and agricultural improvements, all of which will fit the masses to take part in local self-Government and will facilitate the creation of constituencies that will secure their representation in the Provincial Legislative Council; and

(5) the immediate enlargement of the powers of the Legislative Councils in directions in which discretion may be left to them without trespassing on the essential functions of the executive, the gradual increase of their elective element, and the steady development of their authority as they become more and more representative of the people.

His Honour in Council attached great importance to the first of these measures because he was much impressed by the feelings of discontent and irritation which had been roused amongst the educated classes of India by the slowness of the increase in the Indian element in the superior services and their general disappointment with the proposals of the Public Services Commission. It was on this discontent that the extremist critics of British rule in India played most successfully, especially amongst the student community, and it was to the same sentiment that the anarchist propaganda appealed in inflaming youthful minds against the burden of the British yoke. The Lieutenant-Governor in Council was therefore prepared to make a bold advance in this direction and to regard the Indianization of the superior services up to a limit of one-half as the immediate goal of endeavour; but as a much larger meassure of advance than he had then thought desirable is now proposed in other directions, his recommendations under this head, which it is understood will form the subject of a separate reference, will call for further consideration.

4. The first four of the recommendations recited in the previous paragraph all find a prominent place in the Joint Report. It is with regard to the fifth, the development of the Legislative Councils, that the authors of the Report have travelled far beyond the limits contemplated by the local Government. The Lieutenant-Governor in Council is not convinced that the advance now proposed was either justified by the political conditions obtaining in India before the publication of the Report or necessitated by the terms of the announcement made in the House of Commons on the 20th August 1917. He considers that the policy then enunciated of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire would have been satisfied by the adoption of the proposals mentioned above. The announcement did not preclude the intervention of a period of preparation and training before the first actual instalment of responsible government was granted, and for such preparation and training provision was made in the local Government's proposals. The general situation has, however, been changed very considerably since last year by the publication of the Joint Report; and the measures then advocated have in consequence ceased to be adequate. Although the Cabinet have not yet considered the recommendations contained in

the Report, the fact that they have been put forward by His Excellency the Viceroy and the Secretary of State has given rise to the confident expectation that they will be carried into effect without any substantial abatement. The failure to do so would create very grave disappointment and would be regarded as a breach of faith which would alienate all shades of educated opinion throughout the country. National sentiment, moreover, amongst the educated classes of India has been steadily rising and will not be satisfied with concessions that might have been regarded as adequate a year ago. This sentiment has received a great impulse from the course of the war, in which India has continued to play an ever-increasing part. As the war progresses, the principle of the self-determination of nations continues to receive ever greater emphasis, and when the only vocal classes in India demand that this principle shall be recognized in the administration of India, it is impossible for the British people, who are the foremost exponents of the principle, to meet the demand with a cold negative. The task of the British administrator in India must henceforth be to give his cordial support to the application of this principle, so far as this is possible without injury to the interest of the non-vocal classes, who constitute the great mass of the population, and without prejudice to the rights of the races, classes and religious communities who constitute minorities of varying size and importance throughout India. In view of these considerations the Lieutenant-Governor in Council is prepared to subscribe generally to the proposals of the Joint Report without further discussion of their *a priori* merits and on the distinct understanding that the safeguards which they provide will be maintained intact. Granted the necessity for the immediate introduction of the first instalment of responsible Government, they seem to him to form on the whole the best attempt which has so far been placed before the public to attain that end, and the onus is on those who criticize the scheme of the Joint Report to prepare a more acceptable plan.

5. Before discussing the proposals of the Report in detail, it will be convenient to notice the general trend of the opinions which have been received from officials and non-officials in response to the invitation of the local Government. A selection from these opinions is appended to this letter together with a copy of the proceedings of an informal conference of the non-official members of the Bihar and Orissa Legislative Council which the Lieutenant-Governor in Council called together to discuss the proposals of the Joint Report, and in particular the division functions between the official and popular elements of the new Executive Government.

In general it may be said that official opinion is either hostile or resigned. Few officials like the proposals, and many of those who have been consulted dwell on the dangers to which an ignorant peasantry will be exposed through the expected predominance in the Councils of the land-holding and professional classes; others, though by no means enthusiastic, accept the proposed reforms as inevitable. It is not altogether surprising that the Services which have had the greatest share in shaping the past administration of India should regard the proposed changes with apprehension. They have helped in the task of building up in India a fabric of administration which they justly regard with pride. They believe that the masses in India have confidence in their

justice and integrity and are grateful for the protection they have received from the oppression of the powerful and for the security in which their daily life is passed. They fear that with any weakening of the present system of government, the structure which has been reared so patiently may fall to pieces and that the people who will suffer most will be those whose security and welfare British rule in India has done most to foster and advance. On the other hand, it is contrary to human nature that three hundred million people should acquiesce in the perpetual domination of a small body of foreigners from a distant land, however high-minded and efficient the latter may be. The present regime cannot continue for ever, and British rule will have failed of its purpose in India, if it does not draw out all that is best in Indians and help them to build up a fabric of self-government, which will stand unshaken on its own foundations. In this view a step in the direction of responsible government may be regarded as essential. The task of the existing Services must be to do their utmost to make it a success; and the Lieutenant-Governor in Council has every confidence that they will be equal to the task. For, in spite of the changes in the administrative government, they will still retain a strong position, and the new authorities which will be set up will rely on them greatly for help, guidance and advice. Indeed, once the members of the senior service realize that in future they must rely on the influence they can exercise through their administrative experience and powers of persuasion, there is every reason to hope that their relations with Indian administrators—the ministers of the scheme, the elected members of the Legislative Council, and the chairman of local bodies—will be most cordial, and that all these will welcome their advice and be grateful for their help.

6. The vocal sections of the non-official classes recognise that the scheme is an earnest attempt to satisfy their political aspirations and express the hope that it will be applied in full measure to Bihar and Orissa, no distinction being drawn between this and other provinces, which may possibly be regarded as more advanced. Where criticism is offered, it is directed not against the dangers of the scheme, but against its proposed safeguards; and there is a tendency amongst the more advanced politicians to decry the proposals as inadequate and falling far short of the Congress-League scheme, which in spite of the defects, pointed out by the authors of the Joint Report, is still preferred by them. Much of this criticism is a repetition of the views which have been put forward at the special session of the Congress. Muhammadan opinion in the province, where it is not merely a reassertion of the Congress-League scheme, is content to dwell upon the necessity for Muhammadan representation greatly in excess of the proportion which the Muhammadan element in the population bears to the whole. The politicians of Orissa concentrate their attention on the claims of Orissa to a separate provincial administration and to the reunion with the parent stock of all Oriya-speaking tracts which are now included in the adjacent provinces. The reference to this subject in paragraph 246 of the Report is not considered adequate; and in particular it is represented that the question of re-distribution of areas in the case of Oriya-speaking population should be taken up before and not after the Provincial Governments are constituted on the reformed basis now proposed.

7. I am now to submit, for the consideration of the Government of India, the views of the local Government on the details of the scheme proposed in the Joint Report.

The first question which arises is the extent to which devolution should be carried in the matter of legislation, and the method by which the respective spheres of the Imperial and Provincial Legislatures should be defined. It is suggested in paragraph 212 of the Report that the administrative control over all provincial legislation, which the Government of India now maintain by virtue of their instructions to local Governments, should be abrogated, and that the control of the Government of India should be exercised by virtue of statutory provisions, framed on the model of sections 79 to 82 of the Government of India Act 1915, together with a general overriding power of legislation for the discharge of all functions which they will have to perform.

The local Government concur in these proposals. They see no necessity for any further definition of the powers of the Provincial Legislatures by statute, as the sphere of provincial business will have already been demarcated by a process of exclusion, that is, by the Imperial statutory reservations. Constitutional practice will come into play in deciding the boundary between Imperial and Provincial business in cases where there may be doubt or obscurity through interconnection of subjects.

8. The question of administrative devolution involves a mass of minor detail which cannot easily be dealt with on broad lines. The proposals of the local Government on this subject are contained in the schedule attached to this letter as Appendix II.

9. The Lieutenant-Governor in Council accepts the proposal that the executive government of each province should consist of two parts, corresponding to a division of subjects between those which may be made over to popular control and those which for the present must reman in official hands. He agrees that as a necessary corollary to this the number of executive councillors in Bihar and Orissa should be reduced from three to two. One of these councillors should be an Indian and the other a European member of the Indian Civil Service. His Honour in Council strongly holds the view that, except in the three Presidencies, the Governor should ordinarily be a member of the Indian Civil Service. It is most desirable that the Governor should have a first-hand knowledge of Indian conditions ; and although this qualification need not be insisted on when a man of first-rate ability and wide experience is appointed from Europe, it is highly improbable that any Indian province outside the three Presidencies would offer attractions sufficient to secure a Governor of the requisite calibre.

The local Government also accept the proposal that the minister or ministers who will form part of the executive government should be selected by the Governor from the ranks of the elected members of the Legislative Council. Provision should be made in the statute for the appointment of two ministers in Bihar and Orissa, but it should be open to the Governor at the outset to appoint only one minister. The work of the province is not at present excessive for a council of three, but it may be regarded as certain that it will increase greatly in volume when the reforms now contemplated are introduced. The pay and status of the minister should be the same as those of an executive councillor.

Although the selection of the minister must rest with the Governor, his appointment should be by Royal Warrant, as it is important in the eyes of Indians that the connection with the Crown should be emphasised.

The local Government consider that nothing will be gained by the temporary arrangement proposed, whereby for five years ministers will be responsible not to the Legislative Council, but to their individual constituencies. The sentiment of the Legislative Council towards the ministers will be the nearest approach to the popular will which can at first be hoped for. The vote of the constituency, especially if it be one of the communal type, might have no significance. If adequate safeguards are provided against the danger that the Legislative Council may use its authority to force the hands of the Governor or embarrass Government, there seems to be no good reason for delaying the introduction of responsibility to the Legislative Council. The safeguards that are required are :—

(1) That the salary of the minister shall be retained as a reserved subject.

(2) That a vote of censure shall be regarded as carried only when it secures a majority of two-thirds of the non-official members.

(3) That the Governor shall have power to refuse to accept a resignation consequent on a vote of censure.

This modification with the safeguards suggested was unanimously recommended by the Conference of non-official members of the present Legislative Council.

10. There remains the proposal in paragraph 220 that power should be given to the Governor to appoint one or two additional members of his Government as members without portfolio. Non-official opinion is unanimously opposed to this suggestion and official opinion is either hostile or lukewarm. His Honour in Council is willing to accept this proposal but he would not press for it, if non-official opinion in other parts of India is strongly opposed to it. In any case, care should be taken to provide that the appointment will be made only for a special purpose and for a specified time.

11. As to the actual working of the Provincial Executive Government, the Lieutenant-Governor in Council accepts the proposals contained in paragraph 221. He also agrees that the Governor should possess a power of control over his minister or ministers, to be defined by an Instrument of Instructions. The general tenor of those instructions may be as indicated in paragraph 219, but it is essential that the Governor's exercise of his control shall not be open to question in the Courts, though it might be subject to revision by the Government of India. His Honour in Council would be glad to have an opportunity of considering these instructions before they are finally shaped.

12. The local Government agree that the Governor in Council must, as proposed in paragraph 240, have full power to intervene in matters (*a*) which concern law and order, (*b*) which raise religious or social issues, and (*c*) which affect the interests of existing services. The reference to the last mentioned class of cases is understood to cover impersonal questions of cadre, pay, and other conditions of service, and not questions affecting individual officers. The right of intervention by the Government of India in these matters should be maintained.

13. The Lieutenant-Governor in Council agrees with the proposal in paragraph 239 that the question whether a particular matter should be dealt with by the popular or the official part of the Government, must be finally settled by the Governor and that no opportunity must be conceded for questioning his decision by reference to a court of law or to the Government of India.

14. His Honour in Council assents to the proposal in paragraph 224 that the Governor should be empowered, if he so wishes, to appoint members of the Legislative Council, whether elected or nominated, to positions analogous to that of a Parliamentary Under-Secretary in Great Britain. This expedient might materially lighten the work of the ministers and secretaries to Government, and at the same time be useful in educating future ministers in their responsibilities.

15. I am now to explain the scheme, which has been framed by the local Government, for the composition of the Provincial Legislative Council and for the electorates in accordance with the suggestions contained in paragraphs 225 to 232 of the Joint Report. A copy of the scheme and of the tabular statistics on which the franchise and electorate proposals are based is annexed to this letter as appendix III. Advance copies have been forwarded to the Franchise Committee for their examination.

16. The Lieutenant-Governor in Council agrees that the principle of direct elections should be extended to all constituencies. This system is already in force in Bihar and Orissa as regards the landholders and Muhammadan electorates, as well as the special constituencies of planting and mining interests. The indirect system obtains in the District Board and Municipal electorates; and when consulted last year, His Honour in Council emphasized the artificiality of both and recommended that, for the former should be substituted a direct electorate in which the franchise would be given at first to members of panchayats and then gradually extended to a wider circle of responsible persons, united by the bond of a common local interest: for the latter he proposed the substitution of a system of direct election by Municipal rate-payers, the vote being given to all persons paying rates in excess of a prescribed sum or possessed of other suitable qualifications, educational, professional, etc. Further enquiries have now been made on the subject of the franchise, of which the results are discussed in paragraph 19 below.

17. The next important question is whether the new electorates should ordinarily be of the territorial type, and to what extent the principle of communal election should be admitted. The local Government agree that the constituencies of the future should ordinarily have a territorial basis, being divided into two main categories, rural and urban. They consider, however, that the principle of communal election should be admitted more generously than is proposed in the Joint Report. The principle is rightly conceded in the case of Muhammadans. The representatives of this community in Bihar and Orissa protest that the concession has been made somewhat grudgingly and contend that it should be extended to provinces where the Muhammadan population is in the majority. The large landholders of Bihar and Orissa have pressed for the retention of their existing communal electorate, and His Honour in Council considers that their claim should be admitted; they undoubtedly form a distinct class in the Province, such as is contemplated in para-

graph 232 of the Report, and it would jeopardize the popularity of the scheme with an important body of opinion if this privilege were withdrawn. His Honour in Council is of opinion that it would be highly undesirable to lower the existing franchise in the case of the special landlord constituencies, as the sole object of the concession is to secure the representation of the large landholders by members of their own class. The smaller landholders may well be merged in the ordinary territorial electorates, in which their influence will secure their adequate representation. The large landholders at present hold nearly one-fourth of the total elected seats in Council, but it is proposed, as explained below, to reduce this percentage very considerably. The special electorates of the planting and mining communities should certainly be retained as indicated in paragraph 232 of the Report, and a University electorate should be added as contemplated in the same passage. The European members of the present Council who represent the planting and mining communities have pressed for the representation of Europeans and Anglo-Indians by election rather than by nomination, but, apart from the two classes which they represent and from European officials, the number of Europeans and Anglo-Indians in the Province is small and scattered, and His Honour in Council does not consider that it is necessary or feasible at present to make provision for these two classes except by nomination.

18. The enquiries which have been made by the local Government with view to the collection of materials for consideration by the Franchise Committee are explained in detail in Appendix III. The local Government concur fully in the recommendation made in the Joint Report that the ordinary franchise of the territorial and Muhammadan electorates should be on the broadest possible basis which it is possible to introduce without a break-down of the electoral machinery involved; indeed they regard this as a fundamental condition of the proposed reforms. The rural franchise, moreover, must be sufficiently low to admit of the adequate representation of the cultivating classes who form the most important section of the population. However much the raiyat voters of the future may at the outset be devoid of political instinct and incapable of appreciating their strength aright, or exercising their power wisely, however much they may be subject in the beginning to undue influence and intrigue, it is absolutely essential that their training in the duties of citizenship should begin at once, if they are to attain to the place in the body politic to which their numbers and economic importance entitle them. There are already signs of an awakening. The co-operative movement has begun to teach them the virtues of thrift and the advantages of union. Great efforts are being made, and will continue to be made in the near future, to develop and expand primary education, and it may be hoped that the existing ignorance and political indifference of the cultivating classes will not take long to disappear. Raiyati associations are beginninng to spring up in different portions of the province, and, although there may possibly be a certain amount of wire-pulling behind these, the fact of their formation is significant.

In endeavouring to form an estimate of the number of voters who might be included in the rural constituencies, the local Government confined their enquiries mainly to the three large classes of (a) raiyats,

(b) zamindars, and (c) tenure-holders, who occupy an intermediate position between the two former classes. They took as the general basis of qualification for a vote the payment of cess, which in the case of the raiyat is calculated at the uniform rate of half-an-anna per rupee of rent. As rental incidence varies enormously from district to district, being dependent not only on comparative fertility of soil and the play of competition, but also on innumerable local factors, it was found that a wide range or rental standard would be necessary in order to bring within the limits of the electoral roll a fairly even proportion of well-to-do raiyats, which would be sufficiently large in each district to avoid being swamped by the other two elements in the electorate. Paragraph 226 of the report contemplates such a differentiation both between provinces and between districts of the same province; and the Lieutenant-Governor in Council considers that it is inevitable at the outset and must be faced, although it may possibly give rise te complaints in the more prosperous districts. A summary enquiry has been made to ascertain whether the local variations would be reduced, if the raiyats' franchise were fixed on the basis of area rather than rent. The figures are incomplete. So far as they go, they indicate that greater uniformity would thus be secured, but His Honour in Council considers that on the whole it is preferable to adhere to the cess basis, as this represents a contribution to local taxation and it is desirable to emphasize that the right to vote is based on a payment to the State. The scheme which has been prepared for the Franchise Committee contemplated the fixing of the franchise at such amounts of cess payment for raiyats, zamindars and tenure-holers, respectively, as will produce rural electorates averaging about two per cent. of the population, or approximately one-tenth of the rural householders of the province. The actual figures, however, on account of the necessity of securing some degree of uniformity, work out to a percentage of 1·7 only. The total number of persons who participate in the present Council elections is roughly 2,500. At a general average of 1·7 per cent. of the population the total number of voters in the province is in the vicinity of 600,000, and the average district electorate about 30,000, of which roughly three-quarters would be raiyats and one-quarter landlords including tenure-holders. This seems as far as it is possible or expedient to go at present in the direction of numbers, as any further increase would place a dangerous strain on the new electoral machinery which is discussed in the next paragraph. The result proposed above is obtained by fixing a rent payment of Rs. 48 (on which cess of Re. 1-8-0 is payable through the landlord) as the general standard for the raiyats' franchise, this limit being reduced to Rs. 16 in the Orissa and Chota Nagpur Divisions and increased to Rs. 64 in certain of the Bihar districts. For zamindars a cess payment of Rs12 is proposed, the fact being recognized that of this amount more than half is recovered from raiyats while in many cases a share of varying amount is borne by intermediate tenure-holders. For tenure-holders a cess valuation of Rs. 100 is proposed, the cess actually paid being borne in varying proportions by the raiyat, the tenure-holder and the superior landlord. It will be seen that provision has also been made in the rural franchise for the inclusion of (a) non-agriculturists who pay income-tax or make an annual contribution not less than Re.1-8-0 to local funds in the shape of union

rates, and (b) of persons who have certain educational qualifications These two classes will be insignificant in point of number, but it is necessary that provision should be made for them.

The case of the urban franchise is simple, as Municipal electorates already exist—and it is proposed that all persons eligible to vote in Municipal elections should also be eligible to vote in the urban constituencies of the Legislative Council. The ordinary franchise in Municipal electorates was formerly based on a rate payment of Re. 1-8-0 but was recently raised to Rs. 3. As the underlying principle of the Reforms Scheme is a franchise on the broadest possible basis, it is proposed to revert to the former standard of Re. 1-8-0. This has the additional advantage of tallying with the general basis of the rural franchise.

The existing Muhammadan franchise yields only an average of about 300 voters for each constituency. The local Government see no reason why it should not in future be placed on the same basis as those proposed for the general rural and urban constituencies.

The franchise of the special landlord electorates has already been discussed.

In the case of the planting and mining electorates, His Honour in Council would adhere generally to the existing arrangements. The member who represents planting interests is returned by the Bihar Planters' Association which is a fully representative body, and no change is required. The present mining member is returned by the Indian Mining Association and the Lieutenant-Governor in Council considers that that body should continue to return a member. But as it is composed mainly of representatives of the Calcutta agents, His Honour in Council thinks that a second member should be provided to represent the interests of local colliery owners who are not members of the Indian Mining Association and of those who are employed in the coal-fields as managers, assistant managers, etc. It has not yet been possible to work out the details for this constituency.

For the new University constituency the franchise should correspond to that in force for Senate elections under the Patna University Act, 1917, and Regulations.

19. Reference has been made in the last paragraph to the limitations which must at the outset be placed on the franchise on account of the practical difficulties which will be experienced in the installation of electoral machinery on a scale never before attempted. The nearest approach to this is in the system of Local Board elections, which has been introduced so far only in the Patna Division. Although the Local Board unit is comparatively small, the experience of past elections has not been very promising, as will appear from the notes included as Appendix IV. The conduct of a general election on the lines now proposed will entail a vast amount of preparation and local organization which will throw a very heavy burden upon the district officers and their subordinate staffs. The provisional views of the local Government on this subject are contained in Appendix V. Here it need only be observed that all unnecessary complications should be avoided and that the election organization should be so arranged as to work in, as far as possible, with the administration of the Local Self Government Department. As regards the latter point, it is a

feature of the present franchise proposals that the Council electoral rolls will be useful for puposes other than Council elections, *e.g.*, for Local Board and municipal elections.

The local Government have considered the questions of (1) plural constituencies with reservation of seats for particular classes of candidates, and (2) proportional representation. They are emphatically of the opinion that such devices are likely to cause undue complication of the electoral machinery, and will not, in the present undeveloped condition of the proposed electors, lead to any useful results in the direction of securing fair representation for minorities. They have therefore framed their proposals on the principle that each constituency will be a single member constituency; and they will, if the proposals are finally accepted, proceed to divide up the districts for which more than one member is proposed, into suitable areas for electoral purposes. As the average single constituency will include a larger number of voters than can be polled by the district staff in one day, the elections must ordinarily be spread over two days; and in the case of the larger districts, which will be represented by two or more rural members, the elections must extend over the greater part of a week. This arrangement will leave certain loopholes for intrigue and personation, but these are necessary evils and every effort will be made to reduce them within the narrowest limits.

20 The important question of the constitution of the Provincial Legislative Council remains to be considered. The present Council includes:—

3 *ex-officio* members.
19 nominated members of whom not more than 15 may be officials.
21 members elected as follows —

(1) by Municipal Commissioners	5
(2) by District Boards	5
(3) by landholders	5
(4) by Muhammadans	4
(5) by mining interest	1
(6) by planting interest	1

Total 43, to which may be added one expert member, official or non-official.

While the local Government accept the principle that the new Council should contain a substantial majority of elected members, they do not consider it desirable in the present circumstances of the province that the Council should be so large, or that the proportion of elected members should be so high, as is demanded in certain quarters. Non-official opinion, which clings to the Congress-League Scheme, asks for a Council of 125 with an elected majority of four-fifths. In the opinion of the Lieutenant-Governor in Council neither of these demands is suitable under the existing conditions of Bihar and Orissa. There is much less diversity of interests in a province that is mainly agricultural than in the Presidencies, and His Honour in Council believes that there will be ample room for the representation of all important interests, while the standard of ability and character will not be unduly lowered, if the new

Council be limited to 96, of which two-thirds should be elected members. This is the figure which he has decided to recommend, after further consideration of the tentative scheme laid before the conference of non-official members, which contemplated a Council of 90, two-thirds elected and one-third *ex-officio* and nominated.

21. The scheme which the local Government recommend is as follows :—

Elected—		
Rural non-Muhammadans		32
Urban non-Muhammadans		6
Rural Muhammadans		12
Urban Muhammadans		3
Large landholders		7
The Planting Community		1
The Mining Interests		2
The Patna University		1
	Total	64
Ex-officio and nominated officials—		
The Executive Councillors		2
The Commissioners of Divisions		5
The Secretaries to Government		5
The Legal Remembrancer		1
Heads of Departments and Experts		6
The Vice-Chancellor of the Patna University		1
	Total	20
Nominated non-officials		12
	GRAND TOTAL	96

In framing the scheme the Lieutenant-Governor in Council has taken the following points into consideration :—

(1) The allotment of seats to Muhammadans follows the basis adopted by the Lucknow Convention of the Congress and the Muslim League which gives the Muhammadans of Bihar and Orissa 25 per cent. of the elected Indian seats. It will be seen that 15 seats have been provided for them out of 60, the four special electorates (Planting, Mining and University) being excluded.

(2) The proportion of rural to urban constituencies is 44 to 9. This gives the residents of cities and towns a larger share in the Council than their population justifies, but His Honour in Council has taken into account both the relative position which Municipal bodies enjoy in the present Council and also the much higher standard of education and general level of intelligence which prevail in urban areas.

(3) It is proposed to give seven seats to the large landholders. This will leave them with a much smaller proportion of representation than they enjoy in the existing Council, but the class is numerically small and it will have little difficulty in securing further representation in the general rural electorates, until such time as the cultivators begin to recognize their political powers. The local Government

propose to distribute the seats for the large landholders, by giving one each to the Patna, Orissa and Chota Nagpur Divisions, which have populations of between five and six millions, and two to the Tirhut and Bhagalpur Divisions with populations of ten and eight millions, respectively.

(4) Of the nominated members, it is proposed that 20 should be officials and 12 non-officials. With a smaller number than 20 the selection of official members for the grand committee would be unduly limited.

The communities and interests for which it will be necessary to provide representation by nomination are fairly numerous in Bihar and Orissa and include the following : (1) industrial interests other than planting and mining, represented at present mainly by the colony at Sakchi but likely to develop greatly in the near future, (2) aborigines who form a large section of the population in Chota Nagpur, (3) the depressed classes who will remain outside the scope of the franchise, (4) domiciled Bengalis who may or may not succeed in carrying a fair proportion of the general seats, (5) Ango-Indians and Indian Christians. A general reserve out of the total of 12 would be retained for adjustment of election results and for the appointment, when necessary, of non-official experts.

22. The distribution of seats assigned to the urban and rural constituencies, both general and Muhammadan, is set forth at page 1 of Appendix III. It is founded primarily on a population basis, but this has been confused to some extent by the disproportionate allotment of seats to Muhammadans and by the preference shown to urban areas, both of which causes have operated to give the Bihar divisions an advantage over the others. The divisional figures are as follows :

Patna—

Population 5,634,789.

			(Including).	
Number of members .	Urban	3	(Muhammadan .	1)
	Rural	10	(Muhammadan .	3)
	Total .	13	(Muhammadan .	4)

Tirhut—

Population 9,973,359.

Number of members	Urban	2	(Muhammadan .	1)
	Rural	14	(Muhammadan .	3)
	Total .	16	(Muhammadan .	4)

Bhagalpur—

Population 8,144,821 (*a*).

Number of members .	Urban	2	(Muhammadan .	1)
	Rural	8	(Muhammadan .	3)
	Total .	10	(Muhammadan .	4)

(*a*) Includes Santal Parganas 1,882,973 which is excluded from the scheme.

Orissa—

Population 5,131,758 (b).

Number of members	Urban	1		
	Rural	6	(Muhammadan	1)
	Total	7	(Muhammadan	1)

Chota Nagpur—

Population 5,605,362.

Number of members	Urban	1		
	Rural	6	(Muhammadan	1)
	Total	7	(Muhammadan	1)

(b) Includes Angul 199,351 which is excluded from the scheme.

23. The question of the qualifications of candidates for election to the Legislative Council, is not dealt with in the Report, but it is presumed that the Government of India would wish to have the views of the Local Government upon it. The existing rules on the subject are contained in Regulations IV and V framed under section 6 of the Indian Council Act, 1909, published in Notification no. 66, dated the 21st November 1912, of the Legislative Department. The conditions of eligibility prescribed in Regulation IV will presumably be retained, but in view of the general change of system now proposed His Honour in Council is doubtful whether it is necessary to prescribe any additional rule for individual constituencies except the general condition that no person shall be eligible for election unless he possesses the qualification for a vote within the constituency concerned.

24. The local Government do not consider that it would be desirable to establish the convention suggested in paragraph 233 that the official members of the Legislative Council should abstain from voting on questions connected with the transferred subjects. For several years to come the official members will be the main repositories of actual administrative experience. It is proper therefore that they should express their views regarding all measures proposed in the Council which affect the administration of the transferred subjects, and that they should give point to their speeches by their votes, provided that they are allowed complete freedom by Government in this matter. To deprive them of the power of voting would materially lessen their interest in these subjects, a result which the local Government would sincerely deplore. His Honour in Council welcomes the proposal to give freedom of speech and vote to nominated official members in the discussion of reserved subjects, except when Government find it necessary to issue a special mandate to the contrary. He agrees that it is desirable to drop the title "Honourable" for members of the Legislative Council, to substitute the affix M. L. C. as proposed in paragraph 234, and to abandon the term 'additional member.'

25. The proposal, made in paragraph 235, to constitute standing committees to advise the member or minister in charge of departments commends itself to the local Government. They also agree that the Governor should be the President of the Legislative Council, with power to appoint a Vice-President who, as suggested in paragraph 236, for

the present should ordinarily be appointed from the official members. The existing rules of procedure should continue in force, subject to modification by the Legislative Council with the sanction of the Governor. They accept the proposal to allow any member to ask supplementary questions and also the restrictions on putting questions, and the power of refusing to answer questions. The Governor should retain some power to disallow the moving of resolutions ; and resolutions, other than those which relate to the budget, should not be binding on the Executive.

26. The local Government accept as generally suitable the list given in Appendix II of the Report of subjects which should be handed over to provincial administrations ; but as regards the division of those subjects between reserved and transferred suggested in Illustrative List II of that Appendix, they wish for the reasons stated below, to make the following omissions from the category of transferred :—

(i) Registration of births and deaths should be reserved, as it is effected in this province by the agency of the police and no other agency is available. Coroners are not known and inquests are carried out under the provisions of the Criminal Procedure Code. Questions relating to such inquests should therefore be reserved. Village Courts are not yet in existence. The Local Government would prefer to leave the question of their administration open, until it is decided what shape they will take.

(ii) His Honour in Council is strongly opposed to the immediate transfer of secondary and technical education. Several large schemes for the development of these subjects are already far advanced, and might be seriously delayed, if a new element of control were introduced. It is, moreover, difficult to draw a definite line between collegiate and secondary education, while in view of the recent creation of the Patna University the relations between that body and secondary schools are still in the experimental stage. It is probable too, in view of the findings of the Industrial Commission, that technical education will be taken away from the general subject of education and dealt with by a separate Department of Industries. It is also desirable to see how the Minister deals with primary education, before extending his control to secondary and technical education.

(iii) Under the head 'Medical' the local Government prefer to reserve the administration of medical schools, as being on a similar footing to secondary and technical education, while there is also a likelihood of their conversion into colleges in connection with the scheme for the development of the University.

(iv) The subject of forests should be entirely reserved. The Forest Department deals primarily with Government forests, and only to a very limited extent with forests that are under the temporary management of Government in wards and encumbered estates, or under special provisions of the Forest Act. In Government estates, unclassed and protected forests are so closely mixed up with estates manage-

ment, and consequently with land revenue and agrarian questions, that His Honour in Council can see no good reason for the introduction of the non-official element into their administration. Moreover, the forests of this province lie mainly in the "backward areas", referred to in paragraph 199 of the Report, for which the local Government have proposed special treatment, *vide* my letter No. 4097-P., dated the 9th November 1918.

(*v*) It is not understood why the subjects of franchise, electoral law, and constituencies have been included in the list, since it is not proposed to transfer them until the Commission, which will sit ten years after the introduction of the Reforms, has reported, and it is impossible to say now what view the Commission will take of the matter. *Prima facie* these would seem to be subjects which should be reserved till the last, as the whole structure of the reformed Government rests on this foundation.

27. On the other hand, the local Government are prepared to include as transferred subjects the following additional items of business which are not in the Illustrative List :—

(*i*) Private Trusts.

(*ii*) Court of Wards and Encumbered Estates.

(*iii*) The control of all services which are exclusively devoted to transferred subjects, saving the power of intervention already reserved by the Governor in Council, as proposed in paragraph 240.

The transfer of these three subjects was recommended by the Conference of the non-official members of the Legislative Council. The Conference also recommended the transfer of —

(*i*) The control of village chaukidars and headmen.

(*ii*) Prisons.

(*iii*) Land Improvement and Agriculturists' Loans.

(*iv*) University Education, Reformatories and Industrial Schools.

(*v*) All forests and forest products.

(*vi*) All agriculture.

The local Government cannot accept recommendations (i) and (ii) as these subjects are intimately connected with the preservation of law and order. Item (iii) is unsuitable for transfer, as it is closely connected with agrarian questions and famine policy. Items (iv) and (v) have been discussed above. Item (vi) appears to be already included in List II and is accepted by the local Government.

The Lieutenant-Governor in Council accepts the reservations proposed in the remarks column of Illustrative List I. In the matter of Local Self-Government in List II, however, he sees no reason why the power of suspending defaulting local bodies should not be exercised by the Minister, subject to the control of the Governor.

28. The question raised at the end of paragraph 246 of constituting Orissa as a sub-province will be dealt with separately.

29. The safeguards proposed in paragraphs 247-254 to be provided against irresponsible action on the part of the Legislative Council have now to be considered. The Lieutenant-Governor in Council while accepting the expedient of the Grand Committee as the best practicable

method of securing the enactment of essential legislation, during the transitional period, is unable to agree that the Grand Committee should be composed precisely as suggested. He considers it essential that the power of the Executive to pass necessary measures should be sufficiently guaranteed; and he does not think that this is provided by the arrangement whereby only 14 out of a total of 641 members would be nominated officials. It may be urged that the Grand Committee has not been devised as a definite and unqualified check upon the Provincial Legislative Council, and that its function is not quite identical with that of the Council of State in relation to the Legislative Assembly. It may also be urged that the bare majority proposed is designed to operate as a check upon the Governor exercising hastily or indiscriminately his power of certification and that the scheme of the Report aims at his carrying his Legislative Council with him and only in cases of sheer perversity resorting to the Grand Committee. Nevertheless His Honour in Council considers that the handicap proposed in the Report is too heavy, and he would not be prepared to acquiesce in the proposal unless the margin between the official and non-official vote be somewhat reduced. With a Legislative Council of 96, he would suggest a Grand Committee of 39 of whom 19 should be choosen by the elected members and 20 selected by the Governor from the ex-officio and nominated members, not less than one-fifth of the 90 to be non-officials.

30. The local Government accept the proposals in the Report as regards the occasions on which the device of the Grand Committee may be called into operation and the procedure to be followed when such occasions arise. They entirely support the proposal in paragraph 254 by which the Governor is empowered to dissolve his Legislative Council and also those which require the assent of the Governor, the Governor General and the Crown to provincial legislation.

31. The proposals contained in paragraphs 255 to 257 on the subject of budget procedure in the Legislative Council commend themselves to the Lieutenant-Governor in Council.

32. The Local Government see no present need for a Provincial Upper House but suggest that the question be kept open for consideration by the first of the periodic Commissions. They approve the proposals contained in paragraphs 260-264 for securing further progress towards responsible government although they would, as already stated above, make the Ministers responsible to the Legislative Councils from the beginning.

33. Coming now to the proposed changes in the Government of India contained in paragraphs 271 and 272 of the Report, the Local Government do not think that the number of ordinary members who have served for ten years under the Crown in India should be less than three. Subject to this stipulation they agree to the removal of statutory restrictions on appointments to the executive Council and consider that the time has come to appoint a second Indian. If it is not found convenient to give him a definite portfolio, he might be appointed as an additional Member without a portfolio. He would have more time to advocate the Indian standpoint in the cases of all Departments if he had no Department of his own to supervise and control.

34. The next group of proposals that require consideration are those contained in paragraphs 273 to 286 relating to the composition and procedure of the Indian Legislature. Indian opinion is dissatisfied with these proposals. The Conference of non-official members of the local Legislative Council pressed for a further liberalization of the Legislature and opposed the creation of the Council of State. Many urge that some subjects in the sphere of the Government of India should be transferred to popular control. As to the latter point it seems evident to the local Government that the goal of the whole body of the proposals embodied in the Report is the creation of semi-sovereign States, with as large a degree of autonomy as it is possible to give them. There is consequently very little room in the business retained in their own hands by the Government of India, for subjects which can be transferred to the control of Ministers responsible to the Legislature. The Local Government regard the creation of a Council of State as an essential safeguard to the experiment in autonomy and responsible Government in the provincial sphere, and they are altogether opposed to any changes in the Government of India, which go beyond those recommended in the Report itself.

35. The Lieutenant-Governor in Council accepts the proposed composition of the Imperial Legislative Assembly (paragraph 273), the abandonment of the title "Honourable" (paragraph 273), and, subject to the proposal below, the allotment, as between the provinces, of the seats to be filled by election (paragraph 274). If seven seats only be allotted to Bihar and Orissa, he would retain the existing seats for representations of the large landholders and the Muhammadans and he would give one general seat to each of the five divisions of the province. The drawback to this arrangement is that it gives the Muhammadans only one seat in seven or considerably less than the proportion agreed to at the Lucknow Convention. For this reason His Honour in Council would be glad if an eighth seat could be allotted to Bihar and Orissa, in which case it would be reserved for a second Muhammadan. His provisional views on the franchise of the general and Muhammadan electorates are stated in Appendix III. He would retain the existing franchise in the case of the large landholders.

The local Government accept the proposals, contained in paragraph 275, which relate to the nomination of non-official members, the employment of Secretaries to relieve members of the Executive Council from constant attendance in the Assembly, the appointment of members of the Assembly to positions analogous to those of Parliamentary Under-Secretaries, the partial exemption of official members from restrictions in speaking and voting and the nomination of the President of the Assembly.

36. As already stated the local Government regard the scheme for a Council of State as an essential safeguard, at least during the period of transition. They also welcome it as a means of securing a permanent element, which will make for stability in the future development of the Constitution. They agree that the personal qualifications of members should be of a character appropriate to the dignity of the body, that they should enjoy the title of "Honourable", and that the life-time of the Council should be five years. They

approve of the composition of the Council proposed in paragraph 277, and the procedure explained in paragraphs 279 to 281.

37. The proposals in paragraph 283 to give the Governor General power to dissolve either of the Legislative bodies and to retain the existing power of the Governor-General and the Secretary of State in respect of assent, reservation and disallowance of all acts of the Indian Legislature commend themselves to the Lieutenant-Governor in Council as valuable safeguards.

38. It is understood that, under the proposals in paragraph 284, the Council of State will have no say whatever in the Budget, and that the Legislative Assembly will merely be able to pass resolutions, which will be advisory in character. On this understanding the Local Government accept the proposals. *A fortiori* resolutions of either House on subjects other than financial must be devoid of any mandatory character.

39. The Lieutenant-Governor in Council sees no objection to the proposal made in paragraph 285 to attach to some of the Departments of the Government of India Standing Committees drawn from the two Legislative bodies. The recommendations in paragraph 286 regarding the procedure of these bodies require no comment. The Local Government would welcome the institution of an Indian Privy Council.

40. In respect of the proposals contained in paragraphs 290 to 295, which deal with the position of the Secretary of State for India in Council, his relations to Parliament and the organization of the India Office, the Local Government accept the recommendations of the Report with two qualifications. In the first place while they consider that it would be an undoubted advantage to secure the presence in the India Office of men who have a first-hand knowledge of Indian affairs and conditions, they are not certain that the reverse procedure would be equally advantageous. The Imperial Secretariat, as it is, tends to be somewhat out of touch with provincial conditions and district work, and this tendency would be accentuated, if a place were reserved in it for officers trained in the India Office. The Select Committee on Indian affairs should be a joint Committee of both Houses of Parliament, or, failing this, each House should have its own Committee. Otherwise most of the Members of Parliament who have first-hand knowledge of the large questions of policy with which the Committee will be concerned, *e.g.*, retired Governors-General and Governors, will be deprived of the opportunity of sharing that knowledge with those members whose interest in India is greater than their experience of it.

41. In conclusion, I am to explain that the present Indian Member of Council does not subscribe unreservedly to the views which were expressed a year ago by the Local Government as then constituted, though he fully concurs in the recommendations which are now submitted.

APPENDIX I.

Extract from Mr. McPherson's letter no. 3668, C., dated the 31st October 1917.

4. Before discussing details, His Honour in Council would like to make a few remarks regarding the claims of the advanced politicians to represent the people, the reality of the demand for Home Rule in the extreme form which they have put forward, and some of the general considerations which must be borne in mind in dealing with this most difficult problem.

The politicians represent only a microscopic section of India's teeming millions; that section is highly organized and well versed in the arts of agitation, but it would be a grave mistake to think that it is in any way representative of the inarticulate masses. The hopes and aspirations of the latter are centred on quite different ideals, and they are moved by very different springs of action. Ninety-five per cent. of the people of India live in villages; and what the ordinary villager wants is to be left alone, to be protected from oppression, to be helped in time of famine, and to have justice meted out to him when he resorts to the law courts. From the earliest times his outlook has been limited to his own village, and he has taken not the slightest interest in the rise and fall of dynasties or in what westerners call politics. A Home Rule agitator, if he addressed himself to the masses, who are very impressionable, might create an ephemeral interest in his propaganda, but the same would be the case with agitation of other kinds. It would be very easy for instance to get up an anti-landlord or anti-money-lender agitation, and it would of course be easier still to stir up trouble between members of the different religious communities. The only difference is that persons who attempted to make mischief in these directions would be quickly brought to book, while the Home Rule agitation is allowed, within very wide limits, to go on unchecked. The masses have no idea whatever of "Swaraj", and, if they could be made to understand the situation, they would greatly mistrust the transfer of power from the executive Government to an elected Legislative Council. The same feeling undoubtedly prevails amongst zamindars. Even amongst the professional classes His Honour in Council believes that the majority, if consulted quietly, would deprecate anything in the nature of catastrophic change, though they would be reluctant to say so openly for fear of being jeered at as sycophants and unpatriotic. Many of those who have subscribed to the Home Rule formula and taken more or less active part in Home Rule meetings have done so merely in order to remain in the swim and to avoid the imputation of being "back numbers."

6. Although the Lieutenant-Governor in Council is of opinion that the demand for Home Rule in the immediate future is confined to a very small section which is by no means representative of the people as a whole, he is in entire sympathy with the demand of those educated

Indians who may be classed as moderates for a larger share in the administration of India and considers that the time has come for a material advance in the liberalizing or Indianizing of the administration. It is only human nature that the educated classes should not be content to remain subject to the domination of foreigners from a distant country who, however sympathetic they may be in their treatment of the Indian populations, remain completely detached from them in the social and domestic spheres, and at the close of their service return to their own country. The slowness of the progress that has hitherto occurred in the admission of Indians to the higher ranks of Government service or to an effective share in the control of the administration, has impressed all the educated classes of India from the red-hot revolutionary down to the most moderate, even though the latter may still appear to accept the situation with tolerable resignation. Meanwhile the spread of education, the improvement of communications, the influence of the Indian press and the proceedings of the Legislative Councils have drawn together all the classes in question and given them a common platform and a feeling of Indian nationality, which is beginning in the case of the educated classes, to rise above the racial and caste differences that have hitherto divided India and still divide it, though they are normally kept within bounds and obscured by the operation of the *Pax Britannica*. The natural craving of educated Indians for a larger share in the administration of their country has been sharpened by recent events. An atmosphere of unrest has been engendered by the present world convulsion, and the thirst for reform has been whetted by the examples of the Chinese and Russian revolutions which, in spite of the unsuccess that has hitherto attended them, afford illustrations of great conglomerations of mixed populations combining in a common effort to emancipate themselves from unpopular domination.

7. The opponents of progress argue that the mainteuance of British control is necessary in the interests of minorities, of the cultivating classes and of the backward races, as well as for the protection of the vast amount of British capital that has been sunk in India; and they protest that the educated classes who clamour for an advance aim merely at substituting for British predominance another form of despotism that will be much more prejudicial to the interests of the masses. The much-abused bureaucracy would not, they say, be replaced by democracy but by a narrow lawyer oligarchy, which is infinitely further removed from true democracy, as understood by western nations, than the spirit which has animated British rule in India for the past fifty years. From this point of view they characterize as amusing if not pathetic, the fraternization of Parliamentry representatives of the British working classes with Congress leaders who are utterly out of sympathy with the corresponding classes of India. There is much that is true in all this, but it is an argument for caution rather than for the perpetuation of the present regimé. After all, the educated classes are the only classes that can express their aspirations, and in all countries it is the educated who give the lead. The maintenance of the present system is against human nature. It is not practical politics to stand still; and our endeavour must be to direct the advance that it will lead to further progress in due course and meanwhile avoid

as far as possible the dangers and drawbacks to which the opponents of progress have drawn attention.

8. The schemes which have been put forward by the nineteen members of the Imperial Legislative Council and by the Muslim and Congress Leagues and, to a much less pronounced extent, that propounded by the late Mr. Gokhale, are open to the very grave objection that they seek to secure the desired advance mainly by the subordination of the executive to elected legislative assemblies. This is a position which is not paralleled even in the most advanced democratic States in Europe or America, where the executive is not controlled by the legislature, although the appointment of the former and the election of the latter ultimately depends on the will of the people. It is an impossible position for an oriental State in which the first requisite of good government is a powerful executive and elected assemblies are far from representing the united will of the people. The Legislative Councils can make no legitamate claim to control in material ways the action of the executive until they are in a position to prove that they represent the people of India. A long way must be travelled before that contingency arises. The conditions precedent will not be fulfilled till education has permeated the masses and they have developed a political instinct and insight which will enable them to understand their own interests and have these fully asserted by their representatives on the Council.

With the exception of the representatives of zamindars and Muhammadans the existing electorates are indirect, and in present circumstances it is impossible to devise an elected Chamber which will represent all classes of the people. The introduction of direct voting will be of no avail, for many years at least, to secure a representative assembly as the masses of the people are incapable of recording an intelligent vote. As already stated their interests are confined to their every-day village life; they do not understand political issues, and they would be quite unable to watch their representatives and see that they act in their interests. They would simply vote according to the influence (pecuniary or otherwise) brought to bear on them. That this would be so is clearly shown by the experience of elections to Local Boards in the only three districts in the province in which such elections are held. In these elections only a small proportion of voters go to the poll, and most of these, when asked why they have gone, say that their zamindar gave them the order. Even in the case of the direct Muhammadan electorate, which has a fairly high voting qualification, we know that many of the voters are quite ignorant of the character and political tenets of the person in whose favour they record their vote.

The overwhelming majority of the Hindu members of our Legislative Councils are members of the twice-born caste. Most of the members are pleaders, and practically all those who are not pleaders are landholders. In other words, they belong to a small and very special class. The "nineteen" say that these men are better able to ascertain the feelings of the masses than European officials, and it is no doubt true that in some respects they are often better acquainted with them, though this is by no means always the case. But even if their knowledge of the masses be greater than that of the European officials, it is to be remembered that their interests are frequently diametrically opposed,

and where this is the case the masses will go to the wall. This is denied by the politicians, but it can be clearly proved by an examination of the discussions which have taken place in Council when the interests of the raiyats conflicted with those of their landlords. As an illustration of what may happen when there is a clashing of interests, an article which recently appeared in the "Express", a Patna newspaper, may be quoted. Speaking of the Bill for compulsory primary education which a private member is introducing in the local Council, it takes exception to the education of the children of various low castes, on the ground that "it may result in their objectionable rise to a higher sphere of society; it may strike at the root of the *Varnasrama Dharma*, on which the social fabric of the Hindus is based...... It is therefore hoped that some safeguards may be provided in the Bill against such possible contingency." The idea of one law for high and low alike is entirely alien to the high caste Hindu. Whenever a man of good social position is sent to jail, petitions for mercy are invariably submitted to Government, and these petitions are frequently signed by the non-official members of the Legislative Council.

9. Apart from this, experience in other countries, and specially in various British colonies, has shown that it is quite impossible to give an elected legislature control over an executive which is not removable by it. With the large non-official majority which the various Indian schemes of political reform have proposed, an impossible position would soon be created. Not only would a Legislative Council so constituted refuse to pass measures which experience has proved to be necessary, but it would carry many measures and resolutions contrary to public policy. For example, it might repeal the Press Act, or the provision for the sale of estates for arrears of revenue, or it might dispense with the existing restrictions on the enhancement of rents, or it might reduce the salaries of high officials to such an extent as to deter Europeans from entering Government services. Some of the measures passed by it might strike at the very foundations of British rule; while many would be contrary to our general policy, or would favour one class at the expense of another. It might be possible for a time to exclude certain classes of legislation from the purview of the Provincial Councils and to maintain an official majority in the Imperial Council for the enactment of such legislation as would no longer be possible in the Provincial Councils; it would also in theory be possible to use the veto. It is clear, however, that these palliatives could not be maintained permanently; and that meanwhile the friction would become more and more intense. The position which would be created would become an increasingly difficult and dangerous one. As one officer puts it, "Given elected councils with the powers proposed (or anything like them) you would rapidly have created a situation in which a predominantly British personnel was charged with carrying out a policy dictated by an influential Indian minority. If the British character of the administration is to be maintained, it is essential that there should be a strong official minority in the Provincial Council, and an actual majority in the Imperial Council."

The argument that bad measures should be left to their operation, so that the people may learn by experience, is fallacious. It is frequently not a question of learning by experience, but of the danger of unfair

differentiation in favour of the class to which the legislators belong, and Government cannot divest itself of its responsibility for seeing that no injustice is done.

11. I am now to submit for the consideration of the Government of India, the constructive proposals of the Lieutenant-Governor in Council. These may be classified under the following heads:—

(1) the largely increased admission of Indians into the superior services which have considerable influence in shaping legislation and regulating the conduct of the administration;

(2) the inclusion of a larger number of Indians in the Executive Councils, both Imperial and Provincial;

(3) the liberalization of local self-government and its emancipation as far as possible from official control and guidance so that the political instinct may be developed in the masses and non-official Indians may be trained in administrative work;

(4) a great extension of primary education, the encouragement of the co-operative movement and the development of industrial and agricultural improvements, all of which will fit the masses to take part in local self-government and will facilitate the creation of constituencies that will secure their representation in the Provincial Legislative Council; and

(5) the immediate enlargement of the powers of the Legislative Council in directions in which discretion may be left to them without trespassing on the essential functions of the executive, the gradual increase of the elective element, and the steady development of their authority as they become more and more representative of the people.

12. His Honour in Council considers the largely increased admission of Indians to the superior services as perhaps the most important step which can safely be taken at the present time in the direction of meeting the aspirations of educated Indians. It is noteworthy that it occupies the smallest place in the published schemes, though it held a very prominent place in Mr. Gokhale's mind, as appears from the reference to the subject at page 394 of the Report of the Public Services Commission. The reason is doubtless that which vitiates most of the recommendations of the Indian reformers, namely, that they propose to begin from the top and work downwards. Given control of the executive, the Legislative Councils would control the services and recruitment for them.

Although the Indian schemes of reform deal mainly with the Legislative Councils, there is no doubt that the main thing at the back of the minds of those who framed them, or at any rate of the minds of those who sympathize with their demands, is the hope that by this means it will be possible to increase the Indian element in the services. The ordinary educated Indian is not particularly interested in the small volume of legislation which passes through the Provincial Councils. On the other hand, he feels acutely the fact that the District Judge and the District Magistrate and other high officials are almost invariably

members of an alien race; and what he longs for, more than anything else, is a substantial increase in the number of his countrymen in the superior services. It is of course true that an increase in the number of Indians in the services is not by itself a step towards the goal of responsible government. It is, however, undoubtedly, a long step towards the fulfilment of the aspirations of educated India. In view of this fact, and of the fact that it is quite impossible to increase the elected majority in the Legislative Councils to anything like the extent asked for in the Indian scheme, the Lieutenant-Governor in Council advocates an immediate and substantial advance in the direction of extending the employment of Indians in the administration. This may, and no doubt will, diminish the efficiency of the services, but it will not endanger the peace and prosperity of the country as would be the case if the control of the executive were handed over to the elected members of the Legislative Councils.

No. C.-105, dated Nagpur, the 30th October 1918.

From—The HON'BLE MR. F. S. A. SLOCOCK, C.I.E., I.C.S., Chief Secretary to the Chief Commissioner, Central Provinces,

To—The Secretary to the Government of India, Home Department.

I am directed to refer to Mr. Hignell's letter No. 950, dated the 15th July, suggesting that the opinion of officials and non-officials should be invited on the proposals contained in paragraphs 212—295 of the Report on Indian Constitutional Reforms, and requesting that the views of this administration on these proposals should be submitted to the Government of India by the 1st of November at latest along with the opinions of other persons consulted.

2. As suggested in the letter under reference public bodies and associations were invited by a notice in the Gazette and in the public press to submit their opinions, while special letters were issued to certain selected official and non-official gentlemen requesting them to favour the Administration with their views. In response to these invitations opinions were received from 17 public bodies and associations and from 14 individuals or committees of individuals as shown in the list I appended to this letter.

3. I am now to submit herewith a Note drawn up by Sir Benjamin Robertson containing his own views on the proposals under reference. As the Government of India requested that the Chief Commissioner's opinion should be communicated to them by the 1st of November at latest, this Note is submitted in type, as there has been no time to get it printed. Printed copies of it will, however, be forwarded later on as soon as they are ready.

4. With reference to paragraphs 3 and 4 of Mr. Hignell's letter, I am to say that the memoranda containing detailed proposals of the Administration for the consideration of the two committees on Functions and on Franchise and Electorates have not yet been prepared. These memoranda are now under preparation and as soon as they are ready copies of them will also be submitted for the information of the Government of India.

5. Of the various opinions received from the public bodies and individuals, the Chief Commissioner has directed the 9 opinions shown in the attached List II, to be printed and they will be forwarded to the Government of India when ready. It is impossible for the press to deal with more than these as it is disorganised on account of influenza amongst the staff. The remaining opinions are therefore being submitted in original.

Note by the Chief Commissioner, Central Provinces, on Constitutional Reforms.

I regret that it will be impossible for me to write such a full note on the subject of the Reforms as I should have wished. For the past month my time has been fully taken up with the situation which has arisen in the Province from the failure of the late rains, the rise of prices beyond anything that was dreamt of even in the Famines and the consequent unsettlement of the public mind in every district. Added to this we have been suffering from a severe outbreak of the influenza epidemic which has raised the mortality in many of the towns to twelve and fifteen times the normal and which has not spared the villages. Many officials of all grades are incapacitated from work and offices have had to be partially closed. I have had to proceed on tour to visit the worst affected districts at the time I hoped to take up the preparation of this note, and all I can do in existing circumstances is to give my general views, leaving many points of detail untouched on.

PRELIMINARY MEASURE OF TRAINING PROPOSED FOR CENTRAL PROVINCES.

Necessity for cautious advance in the Central Provinces.

2. I shall proceed first to state my opinion as to the method most suited to the Central Provinces for laying a foundation for the advance which has been set forth in the pronouncement of the 20th August 1917. That pronouncement I accept in full, and if now put forward as the initial stage towards its fulfilment in these Provinces—something that is less progressive than the scheme of the Report, it is because I feel that, for the sake of well-ordered advance and the maintenance of a stable government a preliminary period of training is essential both for the electorate and for the members of the Legislative Council before we enter upon a stage of responsibility such as is contemplated in the Report. In the proposals which I shall put forward there is nothing which is at variance with the declaration of His Majesty's Government as to the gradual development of self-governing institutions with a view to the progressive realization of responsible government. It is because I wish to see that gradual development proceeds on lines which involve no risk of failure that I have advocated a cautious advance. The system adopted in the Report for granting a measure of responsibility cannot in my opinion be safely applied to the Central Provinces at the present stage. It is admittedly a system beset with difficulties and has been resorted to only after mature consideration of all possible alternatives. And for reasons which I shall give hereafter I have come to the conclusion that in these Provinces it is best to make no attempt to start straight away with the conferral of responsibility on the lines suggested, and I shall indicate as clearly as I can why I regard a period of training to be necessary before such a step is taken.

3. It appears to me, in the first place, that in Chapter VI of the Report the case for a slow advance—or, as I have put it, for giving some preliminary training—is put in a manner which must arrest attention. It is unnecessary to make quotations, but I would refer to paragraphs 132, 133 and 136 as to the conditions which prevail in India, the ignorance and helplessness of the bulk of the population, the absence of any knowledge of political questions and of any desire to take part in elections. The existence of a limited number of educated men who properly desire to take a share, and a responsible share, in the control of their country's destinies cannot shut out the fact that the basis for responsible government, an electorate which can exercise a responsible vote, is still to be found. We have to create some knowledge of citizenship amongst the people, we have to educate and to raise the standard of living—work which must be undertaken with renewed and extended vigour by the Departments of Education and Agriculture. In a passage which is quoted in paragraph 137 of the Report and with which I entirely agree, it is mentioned that unless some such transformation accompanies the political changes in contemplation, "disaster will certainly result." If this view is held—and I submit that justification for it is given in Chapter VI of the Report—should we go so fast as the scheme put forward recommends?

Conditions of the Problem: Chapter VI of Report.

4. In the case of the Central Provinces, my conclusion is that it would neither be safe nor even practicable to do so. We are making distinct progress and but for the war a much further advance would have been achieved. On my recent tour I visited a newly opened agricultural farm in one of our backward districts, and I found that the surrounding cultivators were already manifesting a close interest in what the Agricultural Department was doing on the farm. Should we not allow this kind of leaven to work for some time longer? Make the villager a better cultivator, raise his standard of living and he will ask for education and better education, instead of having to be forced to send his children to school, as is too often the case at present, or of taking them away to help in the fields before they have learned beyond a mere smattering. But let us recognise that this has still to be accomplised. In the non-official opinions which have been received the lack of any political sense among the people is emphasised by more than one of the gentlemen who have written on the subject of Reforms, even when in some cases they press for a further advance than is set forth in the joint scheme. I quote the following:—

Conditions in the Central Provinces.

(1) "The provincial areas and interests involved are immense, indeed are on what would elsewhere be regarded as a national scale. The amount of administrative experience available is small; electoral experience is almost entirely lacking."

(2) "People have not yet learned the use of the vote. * * * It is a matter of common complaint that even in local affairs voters with every advantage of local knowledge do not exercise their vote in a proper way and do not control the municipal executive in matters vitally affecting their interests. The hope that electors more disad-

vantageously situated will provide a better agency for controlling the executive is unwarranted."

(3) "The gradual spread of education and the development of the resources of the people will create trained public opinion, the like of which can hardly be said to exist at the present moment. The electorates have to be prepared for a responsible political life before they can be made to realise what is and what is not to their true interest and real benefit. The franchise should be extended slowly and must keep pace with the creation of a healthy and appreciative electorate."

To show how listless the people can be even when their interests are closely concerned, the following quotation from the recent Settlement Report of the Nagpur district, the most enlightened in the Central Provinces, may also be given :—

"An endeavour was made to interest the malguzars and tenants in the operations, but it proved very uphill work. No one who has not visited the villages, as I have done, can realise the utter apathy with which the people regard the settlement operations."

5. With every desire to recognise the aspirations of the politically minded educated classes, I would say that for an advance to be real it must be based on better foundations than now exist. There can be no sense of responsibility among an electorate such as we possess. They will be led away by the glib political orator who will be profuse in his promises of concessions in respect of land revenue enhancements, forest privileges and the like. As an experienced Commissioner has said, the most unscrupulous candidates who are ready to make the wildest promises and will not shrink from the lowest form of electionering devices, will be likely to succeed. Is this calculated to give a good start towards responsible government? And should we give any measures of responsiblity until the way has been better prepared? In my opinion great danger would be involved, particularly in the early years of a scheme such as is outlined in the Report, if we close our eyes to the lack of responsibility in the electorate. Co-operation and mutual good-will cannot be expected in the governing body if the above prognostications come true, as I believe to be likely to be the case.

Lack of interest in the Report.

6. In earlier discussions with the Government of India on this subject I had pressed the need for a period of training. On the appearance of the Report, I felt that it might be necessary to make an advance on the lines suggested in it—and I quite recognise the difficulty of giving anything short of what has been put forward in the joint scheme. But the experience which has been gained since the publication of the Report has led me to adhere to the view that in the Central Provinces we must go slowly. My officers have generally reported that in almost every district no interest has been taken in the details of the joint scheme except by a small politically-minded class. In a tour which I made in September I found it very difficult to get intelligent land-owners and merchants to converse on the subject—they are admittedly too much taken up with the present economic conditions to have a thought for anything else—, but the general impression I formed was

that they had no desire to trouble their heads about this new whim of the Sirkar's, and this despite a certain amount of official stimulation towards interest being taken in the Report. In one place where a conference was held and a certain number of cultivators were got to attend, the idea prevailed that it was a meeting in connection with the war that was to take place. In another place, well-meaning individuals were brought in to ~~make a show of~~ condemning the proposals in the Report as being insufficient, who I was assured had no real knowledge of the subject and would have hesitated to support the contemplated change of regime, had they understood what it meant. It is this lack of interest in a matter of such grave import among the great mass of the population that confirms me in the belief that my previous plea for caution and for a period of training should be adhered to, and I consider it essential that I should place it definitely on record in this note.

Communal electorates not called for in the Central Provinces.

7. Before I proceed to state what I consider the best method for laying the foundation for an advance in the Central Provinces, I had better here deal with the question of constituencies in view of what I have said in the preceding paragraphs. It is impossible in existing circumstances to have the electors coming to the polls in their thousands. The basis of the franchise must be fairly wide, but the conditions which have already been referred to in this note render it out of the question that it should be really broad; what we desire to see is a leavening of intelligence, which will spread to the mass as time goes on. In the Central Provinces we are fortunately so circumstanced that the question of communal electorates can hardly be said to arise. The Mahomedans are but a fraction of the population and are widely scattered; it is next to impossible to suggest separate constituencies to meet their case, and in the Central Provinces it would in my opinion be correct to lay down from the outset that the special exception which the Report has made as to the representation of this community cannot be carried into practical effect. The aboriginal and depressed classes are part and parcel of the general rural population. Under the scheme of constituencies which I propose, they will be entitled to vote with their fellow villagers if they possess the necessary qualification, which a certain proportion of them will do, just as much as the members of other castes.

Constituencies to be urban and rural.

8. I consider then that we should start straight away with a system of direct electorates in these Provinces, leaving to nomination any special representation which may be desirable. I do not overlook the fact that I had hitherto advocated representation by classes and interests, but the classes and interests which I had specially in mind were the cultivating and landholding classes and those engaged in commerce and trade. In the proposals which I shall now put forward these will, I consider, be sufficiently provided for. I would draw a clear dividing line between rural and urban constituencies. In the former the cultivating classes—who are of predominant importance—will be given a chance of getting to know the effect of their vote. In the latter the trading and commercial classes will be able to make their influence felt; those of them who live in the villages have often large interests in land and special representation in their case appears to be uncalled for.

9. For urban constituencies we can have either separate electorates for the larger towns only, letting the smaller towns merge in the rural areas: or we can combine the towns—excluding those which are merely large villages and have not distinctly urban character—into groups. These alrernatives will be discussed with the Franchise Committee. For the rural areas I should like to see the constituencies small in size, and I would lay down that candidates for election should be registered as voters within the constituency. By this means we may hope to see the really local man of standing and influence coming forward as a candidate, a result we specially desire to bring about. It has been suggested that the constituency might ordinarily be based on the tahsil; this cannot come at this stage as it would involve having too big an assembly, which in present circumstances it would be difficult to fill. For the present, therefore, a larger area, *e.g.*, the whole district where it is small, and sub-divisions or groups of tahsils in large and important districts, should be adopted as the unit of area. The advantage of this arrangement is that as time goes on it can be developed on the lines of ordinary progress by splitting up constituencies. By this separation of the urban and rural and by choosing moderate areas in the latter as constituencies, it will be possible for the cultivator to know who it is he is voting for and thereby to gain that education in what his vote means, which must be the foundation of the whole fabric.

Provincial Executive Suggestion in paragraph 217 of Report recommended.

10. Holding, as I feel compelled to do, that in these Provinces an immediate conferral of responsible government cannot be supported in the absence of a responsible electorate, I must record my opinion in favour, during the preparatory period, of a scheme such as is set forth in the earlier part of paragraph 217 of the Report in preference to the scheme of a composite government composed of an Executive Council and a Minister or Ministers. In the Central Provinces, which have hitherto been governed by a Chief Commissioner alone and which have had a Legislative Council for only four years, I consider that the first step should be the establishment of an Executive Council with one official member and one Indian non-official member, an enlarged Legislative Assembly with a substantial elected majority, the training of individual members in the practical work of administration through standing committees and the creation of appointments akin to parliamentary under-secretaries as suggested in paragraph 224 of the Report. It is in my opinion most desirable that there should be a period of training not only for the electorate but for the members of the Legislative Council as well. I recorded this opinion in October of last year, and I still adhere to it. It is urged, however, in paragraph 217 of the Report that the adoption of this system will only lead to the encouragement of irresponsible criticism on the part of the elected members. The difficulty must be admitted, but with the closer association of the members with the Executive Government by the means above indicated, I consider that this difficulty will be greatly mitigated, and for the transition period it must be faced.

Need for period of training.

11. No one can deny that when power comes to be transferred in whatever method may finally be adopted, the risk of failure—and that this risk exists can be gathered from the opinions of Indians who press strongly for reform—

will be greatly minimised if practical experience has been gained in what administration actually involves. It will surely be of value that this lesson should first be learned, that the persons to whom power is to be given should know what it is to fit means to ends and should comprehend that well-intentioned theories may not be capable of practical application. I strongly hold that a period of preliminary training on the lines mentioned is essential to real success in devolution of the functions of government, if a break-down is to be avoided when a measure of responsibility comes. In the sphere of local self-government, successful administration has been too rare to justify rash experiment in a higher sphere. We are now giving the people complete scope for development of administrative talent in local affairs, and in the Resolution of the Government of India laying down this policy it is clearly stated that they must gain wisdom by their mistakes. Should we adopt such a clean-cut attitude in the field of higher administration, where mistakes will be of much more serious import? I do not think that such an attitude would be good either for the country or for the aspirations of those who ask for more rapid advance. From both points of view let us make sure of our steps, and let us first give opportunities for gaining practical experience in such a way that ultimate harm will not ensue and real progress not be impeded.

Appointment of non-official member of Executive Council from Legislative Council.

12. In connection with this question of training I have considered whether the step should not be taken of appointing the non-official member of the Executive Council from amongst the members of the Legislative Council. Against the step can be put the objection that it unnecessarily limits the field of choice to a post which carries heavy responsibilities. On the other hand the making of the appointment from amongst the elected members would give to a man who is actively engaged in politics the best possible field for gaining practical experience of administration, and it appears also desirable with a view to future developments to create a link between the Executive and the Legislative and to provide an inducement for the best men to enter the Legislative. On the whole therefore I would recommend that the appointment be so made, though within this field the Governor should have a free choice.

Local Government Board.

13. Although I do not propose to introduce at the present stage the scheme laid down in the Report for the formation of a composite government with a Minister in charge of transferred subjects, I may here mention that a very distinct step in this direction will be taken with the formation of a Local Government Board, which is provided for in the draft Local Self-Government Bill which is shortly to be introduced in the Legislative Council. The Board will be constituted, to begin with, of the Financial Commissioner and two elected members of the Legislative Council. When an Executive Council is formed for the Province, the Indian member will displace the Financial Commissioner, and the whole management of local bodies will be handed over to what may be described as non-official control, involving the development of matters of such importance as primary education, sanitation and the like. To some extent, therefore, the scheme of the Report will be anticipated when this arrangement comes into force.

14. In the preliminary scheme which I have sketched out, the Budget will be prepared after full discussion in a Finance Committee, which will have access to the recommendations made under particular heads by other standing committees, and the adjustment of ends to means will come into play with fuller comprehension than under the procedure in the existing Councils. But the ultimate control of the Executive Government must for this period remain unrelaxed. The Executive Government will, however, be subjected to new influences through the standing committees, and as a consequence more and more should the latter be able to mould the policy of the Government in finance, particularly as experience is gained and inside knowledge obtained of what the practical running of the Government machine involves.

The Budget.

15. With regard to means for securing the affirmative power of legislation, for which it will be necessary to make provision, I accept the proposal made in the Reforms Report for proceeding by Grand Committee. Objections have been urged against this device because of its cumbrousness; it has also been questioned whether the constitution of the Grand Committee which is suggested in the Report will secure the necessary power of affirmative legislation. During the preliminary period, I consider it necessary that the power should be better secured, and this can be attained by some slight alteration in its constitution as regards the nominated members. The cumbrousness of the plan must be admitted; but it is no more so than working with a second chamber, a development which I am prepared to see take place when the next stage is entered on.

The Grand Committee.

16. I have now stated what in my opinion should first be done in the Central Provinces. There is no suggestion that immediate responsibility should be transferred, and to this extent the proposal may be stigmatised as halting and as falling short of the announcement of August the 20th. I have already said that it is not at variance with this announcement: I have put it forward as a preparatory stage, and such I intend it to be. And I wish to see this stage extend over the lifetime of at least two Councils, or preferably until the first Parliamentary Commission of Enquiry visits India. My contention is that in the present state of development of these provinces the time is not ripe for a measure of responsible government. If we are to avoid a break-down—and as I shall presently mention when discussing the scheme of a composite government there would be every risk of this—it is sound policy first to prepare the way. Thus and thus only can we build up a fabric which is likely to stand. Apart from the best interests of the country, it is surely the way in which the aspirations of those who ask for progress can be definitely fulfilled.

Period of training.

Nothing would in my opinion be more prejudicial to this progress than a step too far in advance, for which the people of the Provinces are not as yet ready, with resulting disillusionment and set-back.

Introduction of Report Scheme after period of Training.

17. I next come to the question of the advance to be made after expiry of the period of training which I have advocated a sure foundation is to be laid for the conferral of responsibility. And this brings me

The device of a composite government.

to the consideration of the device for the appointment of a Minister or Ministers, which is the essence of the joint scheme. The device it may be at once said, is not an ideal one, as has been fully admitted in the Report itself, but it has been adopted as the only one which can in a certain measure meet the end in view. The authors of the Report have in paragraph 217 considered the suggestion of appointing to the Executive Council elected members of the Legislative Council as representing that Council. This suggestion has found advocates, amongst whom, as will be seen from the opinion he has submitted, was Rao Bahadur R. N. Mudholkar. But he has had to admit that the arguments advanced against the suggestion in the latter part of paragraph 217 of the Report make it impracticable as a measure of conferring responsibility. If the second of the formulæ of the joint scheme is to be accepted—although I have demurred to its acceptance as an immediate step—I see no course open but to have resort to the system of a composite government which has been adumbrated in the Report. I frankly admit that I do not like it, it is full of possibilities which may lead to a dead-lock, and it must in many respects fail in its chief object of putting responsibility on the shoulders which are supposed to bear it; the two parts of the Government must strongly interact—even with division of subjects this cannot be avoided—and in actual working the control of the Minister in the transferred subjects will not be clear-cut. And this indefiniteness will react on the voter, who will find it difficult to fix the responsibility for a measure to which he objects. The device with all its drawbacks is, however, the nearest approach to a measure of responsibility which seems possible, and I am therefore prepared to accept it as such.

Difficulties involved.

18. I think I should here mention that the difficulties of the scheme are present to many thinking Indians. The Hon'ble Sir B. K. Bose and Rao Bahadur R. N. Mudholkar have prominently mentioned the danger of a dead-lock arising, and I would further instance the remarks made in the debate in the Central Provinces Legislative Council on the 11th September on the subject of transferred heads. Every other speaker took objection to the proposed bifurcation in the Government, the Hon'ble Mr. Kolkar remarking :—

> "I am not in favour of the division of the Government into different parts. Government must be one, and all members of such Government must jointly and severally be responsible for all the subjects. However good the relations between the members may be, we cannot ignore human nature, and human nature being what it is, misunderstandings and perhaps even friction are quite conceivable or inevitable."

The Hon'ble Mr. Golwalkar said :—

> "Considering the bifurcation of Government functions from the practical point of view, I am inclined to think that it is beset with certain difficulties of so grave a nature that it may not be found to be a workable compromise."

Particularly in regard to finance the burden that is laid on the Minister of finding money for transferred subjects by new taxation was viewed with apprehension as tending to bring the two parts of the Government into insurmountable opposition.

19. In the Central Provinces if the proposals I have made with regard to direct territorial election from the outset are carried through, we shall escape from one serious objection to the scheme which has been discussed in a note on the Reforms drawn up by the Hon'ble Sir James Walker. He points out that so long as there are communal electorates it is impossible to speak of Ministers representing the Legislative body.

Communal electorates a stumbling-block.

> "The concession of this point is neither more nor less than the admission that the country is unfit for the Parliamentary system, and I venture to think that the Report hardly recognises sufficiently how far this admission makes it impossible that with communal electorates the Ministers can ever become Ministers in the Parliamentary sense."

There is no element of "the party in power" so long as communal electorates are in existence. In other words a Minister responsible to a heterogeneous assembly is a purely paper conception.

20. The point on which, however, I desire to lay the strongest emphasis is the position which would in my opinion undoubtedly arise if in existing circumstances immediate resort were had to the form of composite government. I have already referred to the absence of an electorate capable of recording a responsible vote and to the positive danger of the voters being influenced by considerations other than those of sane policy. The Commissioner, whose view I have quoted as to the class of candidates likely to gain seats if we depend on an ignorant and gullible electorate, has stated his categorical opinion that the worst dangers are likely to occur during the early years of the introduction of a composite scheme, and that a bitter lesson has to be learnt by experience before the sober element asserts itself. The position of the Executive Government *vis-a-vis* the electorate will be extremely difficult. It cannot present its case in a popular form to the constituencies or counteract the campaign of misrepresentation which is certain to be resorted to. It can only hope for support from the moderate candidates, and much will depend on how far candidates of sober views are ready to come forward: we know that it is too often the case that such men with a real stake in the country shrink from electioneering and look to Government to counteract wrong measures, and it is unlikely that, to begin with, they will throw off their reserve.

Risk involved in immediate introduction.

21. Whatever form of constituencies we adopt, it is my belief that at the outset the electoral campaign is likely to result in the return of men with extreme views and with little thought for making the device of a composite government a workable one. What would be the position of a Minister responsible to an assembly largely composed of irreconcilable elements? Can we expect from him the exercise of forbearance and good-will, which is essential to the working of a composite government, if by adopting such an attitude he has to face a hostile Council? His position would be one of extreme difficulty and the dead-lock which is feared by many thinking Indians could hardly be avoided. I am convinced that it would not be right to make such an experiment forthwith. And for these Provinces I have therefore definitely recommended a period of grace. Until we have attained greater knowledge both above and below, until the elector has learnt to judge rightly of the man who asks

for his suffrage, and until we can trust the constituencies to return to the Council candidates who will really represent the views of the countryside, I certainly consider that caution and slow advance should be the order of the day. I do not overlook the plea put forward in the Report that this knowledge of the meaning of the vote can only come from experience of responsibility ; I do not dispute the argument ; but I have said, and I must hold to it, that this experience might be too dearly bought by electors so unsophisticated as the Central Provinces villagers.

Upper Chamber.

22. When the further stage is reached, I am of opinion that with it should come too the establishment of a second chamber. This is a development which must come sooner or later, and when we start on responsibility let us make the start complete. There is little object in speculating so far ahead as to what the composition of an upper chamber should be, but the composition I would advocate would be 50 per cent. elective—representatives of large landed interests, important industries, and of special communities (if electorates can in any case be devised)—25 per cent. nominated non-officials and 25 per cent. nominated officials, the latter disappearing from the lower house except the members of the Executive Council, who should, of course, sit in both. With such an upper chamber the necessity for securing affirmative legislation by means of the Grand Committee could, I consider, be dispensed with, and the Grand Committee would disappear ; the power of veto on legislation would of course remain.

Executive Council members without portfolios. Instrument of Instructions.

23. Such being the scheme which I suggest as being best suited to the Central Provinces and as being most likely to secure that there should be no turning back when the advance takes place, I do not propose in the time at my disposal to offer many further remarks on the plan of the joint scheme. I would, however, advise that the proposal to appoint additional members of the Executive Council without portfolios be dropped : it has found no support. A matter which has raised a certain amount of criticism is that referred to in paragraph 219 of the Report, *viz.*, the relation of the Governor to Ministers. A power of control is reserved to the Governor, and the exercise of this power will be governed by an Instrument of Instructions to be issued on his appointment by the Secretary of State. In a note which has been drawn up by certain members of the Central Provinces Commission emphasis is laid on the avoidance of any indefiniteness as to this important prerogative, and the suggestion is put forward that everything should come fair and square within the four corners of the statute. The Report is not very clear as to what the Governor's power of control is to be in actual practice ; and if exception is taken, as may well be the case, to the possibility of the Instructions varying with the idiosyncracies of a particular Secretary of State, a safeguard might be the laying of the Instrument on the table of the Houses of Parliament. The suggestion made in the note which has been referred to that the Instructions should be embodied in the statute itself is not capable of adoption, as they cannot remain the same for all time. With regard to the responsibility of Ministers to the Legislative Council, under the proposals which I have advocated for adoption in these Provinces, it would,

I consider, be possible at the stage when a measure of responsibility is introduced to go to the full extent indicated in paragraph 260 and have the Ministers' salaries voted by the Legislature.

THE GOVERNMENT OF INDIA AND THE INDIA OFFICE.

Final control of Government of India.

24. I have little to remark on the proposals for reconstruction which are put forward in Chapter IX of the Report. In his speech at the opening of the last Council session at Delhi His Excellency the Viceroy enunciated the fundamental principle that the authority of the Government of India must remain in essential matters indisputable and declared this to be basic. The acceptance of this principle puts out of court any suggestion, such as is being pressed, that there should be introduced in the Government of India any system of bifurcation such as has been proposed for the Provinces. Apart from any other consideration, the introduction of the composite system of government in the Provinces contains, as has been already said, so many uncertainties as to its practical working that it would be improper to make any such experiment in the central Government until full experience has been gained in the provincial sphere.

Legislative Assembly and Council of State.

25. With the expansion of the elected element in the Legislative Assembly and the creation of a Council I am in general agreement. The creation of a Council of State has been criticised as cumbrous and top-heavy, considering the completness of the control which the Government of India will retain. But it affords a means for the exercise of the affirmative power of legislation and lays the foundation for a normal second chamber. With regard to the point raised in paragraph 273 of the Report as to election to the Legislative Assembly, I would unhesitatingly state that, so far as the Central Provinces is concerned, the system must be one of indirect election by the members of the Provincial Legislative Council. The institution of an Indian Privy Council appears to have met with little support, and I consider that the proposal should be dropped.

Devolution of powers.

26. The question of devolution of control by the Government of India over provincial subjects is to be dealt with by the second of the two Committees which have now been appointed, and I shall not enter upon the subject in this note. I accept the general conclusions embodied in the Report as to the relations that must in future exist between the Secretary of State, as representing Parliament, and the Government of India.

B. ROBERTSON,

Chief Commissioner, Central Provinces and Berar.

PACHMARHI :
The 30th October 1918.

No. 1429-W., dated Shillong, the 28th October 1918.

From—The Hon'ble Mr. J. E. WEBSTER, C.I.E., I.C.S., Chief Secretary to the Chief Commissioner of Assam,

To—The Secretary to the Government of India, Home Department.

With reference to your letter no. 950, dated the 15th July 1918, on the subject of the Report on Indian Constitutional Reforms, I am directed to say that the report has been carefully considered by the Chief Commissioner and opinions have been collected from a number of official and non-official gentlemen, as well as from the leading public associations of the province. Finally, on 5th October, the Chief Commissioner invited non-official members of the Legislative Council to express a corporate opinion upon the report with special reference to the "Illustrative Lists" contained in Appendix II of the report. I am now to submit six copies of each of the following printed papers :—

(1) The opinions received from officials, non-officials, and public bodies.

(2) The proceedings of the meeting of the non-official members of the Legislative Council, containing the questions framed by the Chief Commissioner, the corporate replies of the members, and a note of dissent from two of the members.

(3) A note containing the considered opinion of the Hon'ble Mr. Beatson Bell, together with an explanatory map of the province.

2. As regards the division of functions, the proposals of the local Administration are fully explained in the body of the Chief Commissioner's note. In the circumstances he has not drawn up any separate note on this subject. His proposals regarding electorates are also contained in the body of his note and are further explained in an appendix.

3. I am to add that additional copies of the above papers will be forwarded to such address and in such numbers as the Government of India may direct.

Note on the Report on Indian Constitutional Reforms, with special reference to the Province of Assam.

1. When the Secretary of State made his announcement of 20th August 1917, I was a Member of the Executive Council of the Governor of Bengal. A month later I went home on leave, and I returned to India in March 1918. Soon after that, on 1st April 1918, I took over charge from Sir Archdale Earle of the Chief Commissionership of Assam. I therefore took no personal part in the discussions of the winter of 1917-18. The present note is based on a study of the papers left by my predecessor, on consideration of the opinions written and verbal which have been furnished by officials and non-officials since my arrival in the province, but above all on 29 years' personal experience (mainly as District Officer, Settlement Officer, and Director of Land Records) in Bengal and Assam.

2. I may say at once that I am prepared to subscribe to the announcement of 20th August 1917. It would, I think, have been better if the announcement had been postponed until after the conclusion of peace. It would also have been better if the announcement had contained a clear recognition of the position of the non-official British community and of the part which they are expected to play in the new dispensation. The announcement has however been made, and although (as far as I am aware) it has not been embodied in any resolution of either House of Parliament, it has now held the field for more than a year and has not, in spite of ample opportunity, been repudiated by either House. It therefore stands as a pledge to which the British Government is committed. In other words, it has become a point of honour, no less than of policy, that henceforth our goal should be "the progressive realisation of responsible government in India as an integral part of the British Empire;" that "substantial steps in this direction should be taken as soon as possible;" and that "the British Government and the Government of India must be the judges of the time and measure of each advance."

3. I have carefully examined, with special reference to Assam, the scheme which has been prepared by Mr. Montagu and Lord Chelmsford. Along with other subordinate officers of Government I cannot help acknowledging the courtesy, not to say chivalry, which our chiefs have shown in asking us to examine their proposals with an open mind and to express our opinions freely. I propose to take full advantage of the privilege thus offered, feeling confident that in so doing I am carrying out the wishes of my commanding officers. If my criticisms and suggestions are, after due deliberation, over-ruled, I am prepared to carry out loyally whatever final orders may be issued.

4. The first point for consideration is that raised in paragraphs 198-199 of the report, namely, whether it is wise to include the whole of Assam within the scope of any scheme of constitutional reform; and, if not, what part should be included and what excluded. Much of

course depends upon the nature of the scheme which may ultimately be standardised, but it may at once be granted that if in any province there are tracts which have hitherto been excluded from all constitutional experiments, and have hitherto been governed upon purely paternal principles, these tracts should either be excluded completely from the scheme, or at least should be included subject to adequate safeguards and reservations. It has been suggested in paragraph 199 of the report that the "schedules" of the Scheduled Districts Act might form the criterion for exclusion from the scheme. I do not propose to apply this criterion to Assam, as the whole of the province has been "scheduled." Such a solution would mean that Assam, although nominally included in the scheme, was totally excluded, which is of course unthinkable. The component parts of the province must therefore be examined without reference to the Scheduled Districts Act. From such an examination we find at once that we are confronted with a problem of much difficulty and complexity. In shape and position Assam consists of an inverted triangle with its base along the north and its apex pointing south. Bengal lies on the west, Burma on the east, while along the north are Bhutias, Akahs, Daplas, Miris, Abors and Mishmis. The whole area of the province is about 77,500 square miles and the population at last census about 7 millions. As might be expected, every diversity of race and language is found. Aryans, Mongolians and Dravidians are found in bewildering confusion. As many as 43 different languages are spoken in the province, and if we exclude those which are spoken by less than 10,000 people we have still 32 languages, each spoken by a large section of the inhabitants. Looked at from a political point of view, this province (like Gaul) is divided into three parts. The first part consists of :—

The Garo Hills,
The Khasi and Jaintia Hills,
The Mikir Hills (in Nowgong and Sibsagar),
The North Cachar Hills (in Cachar),
The Naga Hills, with outlying tracts,
The North-East Frontier Tract, in two parts,
The Native State of Manipur,
The Lushai Hills.

This part covers nearly two-thirds of the whole province—in other words 50,500 square miles out of 77,500. Its population is roughly one million, consisting of simple hill tribes governed in patriarchal fashion. With the exception of Shillong Municipality, which joins with some other municipalities in electing a member this vast tract is entirely unrepresented in the present Legislative Council.

The second part of the province consists of the following districts lying along the river Brahmaputra :—

Goalpara,
Kamrup,
Darrang,
Nowgong (the remainder),
Sibsagar (the remainder),
Lakhimpur.

This part, known as the Assam Valley, covers about 20,000 square miles and has a population of about 3 millions. In this part the

prevailing religions are Hinduism Animism, and the prevailing language is Assamese. The Assam Valley elects four Indian members to the present Legislative Council, including one representative of the Muhammadan minority.

The third part of the province, separated from the second part by ranges of hills, consists of a small but densely populated tract known as the Surma Valley. The districts in this part are Sylhet and Cachar (Sadr and Hailakandi sub-divisions). The area is much smaller than the Assam Valley, being only 7,000 square miles. The population is, however, practically the same, namely, 3 millions. The Muhammadans form a slight majority. The Surma Valley like the Assam Valley elects four Indian members to the present Legislative Council. Of these members, two are Hindus and two are Muhammadans. Of the latter, one represents the Local Boards, while the other represents the communal electorate.

In both Valleys there are numerous tea gardens. They cover an area of 2.000 square miles and give employment to half a million Indians. The Tea Industry has three representatives in the present Legislative Council.

5. The map which I annex to this note gives a vivid picture of the province. The large area coloured red indicates the Hill tracts which are as yet unrepresented in the Legislative Council. The two smaller areas coloured white indicate respectively the Assam Valley and the Surma Valley which each elect four Indian members and between them, three British members. It will be readily admitted that owing to the peculiar conditions of this province much could have been said for treating Assam like Burma, in other words for postponing the operation of the new scheme until the experiment had been tested elsewhere. Much could also have been said for treating Assam somewhat on the lines of the North-West Frontier Province. For example, our Legislative Council (although enlarged and reformed) might have retained for the present its existing constitutional functions, while the only change in the executive administration might have been the association with the Chief Commissioner of an advisory council, constituted on a liberal basis. I have carefully considered both these proposals and have come to the conclusion that, whatever be their intrinsic merits, they are no longer within the sphere of practical politics. As Assam has been included in the Report along with the seven major provinces of India, Assam must stand or fall along with them. The future constitution of Assam must follow the general lines of the constitutions of the other seven provinces, although I hope I have already written enough to show that the constitution of Assam cannot be identical with those of its richer, more populous and more homogeneous neighbours. In particular, the existence of 50,000 square miles of patriarchal tracts constitutes a distinct problem which must be faced. How are we to treat the area coloured red? To frame electorates for this area and to include it in the general scheme is out of the question. It is true that the standard of education in the Khasi and Jaintia Hills is comparatively high, but the people have as yet shown no desire for political union either with the Assam Valley or with the Surma Valley, and moreover a very large proportion of them are subjects of Indian chiefs (Siems). The inhabitants of the other Hill tracts are obviously

unsuited for full inclusion in the scheme. On the other hand, there are cogent arguments against complete exclusion of the "red" tract. In the first place the present Legislative Council has power to legislate for the "red" tract and has, to a limited extent, exercised that power. There is no real danger in the existence of this legislative power. It is laid down in section 14 of the Assam General Clauses Act, 1915, that "unless and until extended under the Scheduled Districts Act, or otherwise, no Act of the Assam Council, in the absence of special provisions to the contrary, shall come into force" in the Hill tracts. An additional safeguard exists in Regulation 2 of 1880 which empowers the Chief Commissioner, with the previous sanction of the Governor-General in Council, to direct that any enactment in force in the Hill tracts "shall cease to be in force therein." So far as legislation is concerned there is therefore no real danger if the new Legislative Council, like the present Legislative Council, has nominal power to make laws for the Hill tracts. On the other hand, it makes for simplicity that the Legislative Council should have such power. There is however a more practical point. It will be seen from the accompanying table* that the hills are, to a considerable extent, financed from the plains. If the hills are to be altogether excluded from the new scheme it will be necessary to arrange that the plains are to pay an annual tribute towards the administration of the hills, just as they are to pay an annual tribute to the Government of India. There are obvious practical objections to such a system. Moreover, if the plains are to supply funds for the administration of the hills it is equitable that the representatives of the plains should not be deprived of all voice in the spending of their money. At present the representatives of the plains can and do ask questions regarding the administration of the hills. They can and do discuss expenditure in the hills on the occasion of the budget debate. To deprive them of these privileges would be a step which it would be hard to justify. Seeing then, that it is not proposed to make over to the portfolio of a "minister" any matter connected with the hills, and that, whatever may be said in debate or embodied in resolution, the Governor in the future administration will be able to ensure that the hills are sympathetically administered and adequately financed, I have come to the conclusion that the whole of the province as at present constituted can safely be placed under the new administration of a "Governor in Council."

*Appendix I to this note.

6. I now turn to examine the specific proposals set out in Chapters VIII and IX of the Report headed respectively "The Provinces" and "The Government of India and the India Office." I shall indicate as briefly as I can how far the proposals seem to me to be suitable generally, or in their application to Assam. I may say at the outset that although this note does not purport to deal fully with the question of financial devolution, I accept generally the proposals contained in paragraphs 200-211 of the Report, subject to the important stipulation that, in the peculiar circumstances of Assam, I regard as excessive the proposed tribute of 18 lakhs from Provincial to the Imperial Government.

7. As regards the general principles of "legislative devolution" and "administrative devolution," I find myself in substantial agreement with paragraphs 212-213 of the Report. I have therefore nothing to add.

8. The next point for consideration is the crucial point of "Provincial executives." I have been Chief Secretary to two Lieutenant-Governors without Council; I have been a member of the Executive Council of two Governors, one of whom had formerly been a liberal member and the other a conservative member of the House of Commons; and I am now head of an Administration without a Council. I have therefore seen a good deal of the inner working of various constitutions, and I am far from being an out-and-out supporter of council, as opposed to personal, government. I recognise however that as a matter of practical politics, and for the reasons given in paragraph 214 of the Report, some form of "collective administration" should now be set up in the eight provinces. As regards the scheme propounded in paragraphs 218-221 of the Report, I have examined it with great care and have compared it with the existing schemes of Council Government, such as the scheme in Bengal with which I am personally acquainted. As an engine of administration there can, I think, be no question that the present system—that is to say, a system in which the whole of the governing body is responsible for every act of government, and in which the voice of the majority prevails—is more satisfactory, more straightforward, and more consonant both with British and with Indian traditions than the scheme which is now put forward. I have tried hard to see how the scheme now proposed palliates the evils of dualism—in other words, diarchy. It is true that there will be "associated deliberation," that all orders will issue as orders of the "Governor in Council" and that the governing body will try to "present a united front to the outside." In fact, however, one section of the governing body will always enter the Council Chamber with its hands tied. It will take part in the discussion but not in the decision. It may, and often will, constitute a majority of the governing body and yet will be powerless to carry its opinion into practical effect. It is not even clear whether the dissentient members of the governing body will have the right to record their objections in a formal "minute of dissent"; and yet it is expected that "all decisions of the Government should be loyally defended by the entire Government." The authors of the scheme frankly admit that they have been "driven to devising some dualism in the executive." Can we feel any confidence that this dualism will in actual practice work better than other dualisms which have appeared in history? For example, without pressing the analogy too far, can we help remembering the dualism which existed in Judæa in the first century of the present era—the dualism of the Roman officials and the Hebrew Sanhedrim? In a famous case, and as a direct outcome of this dualism, the Roman Governor felt compelled, against his better judgment, to acquiesce in an unjust decision. He "washed his hands before the multitude"—but the unjust decision was carried out.

9. The question before us is this—is it really essential, in order to carry out the declaration of 20th August 1917, to introduce the dangerous element of diarchy into the system of Council Government as it now exists in India? The fundamental principle of the existing system is contained in section 50(1) of the Act of 1915:—

"If any difference of opinion arises on any question brought before a meeting of a Governor's Executive Council, the Governor in Council shall be bound by the decision and opinion of the

majority of those present, and if they are equally divided, the Governor or other person presiding shall have a second or casting vote."

The second clause of the same section empowers the Governor to over-rule the majority of this Council when he is satisfied that the "safety, tranquillity or interests of his presidency, or any part thereof, are or may be essentially affected." The third clause provides that when the Governor takes this extreme step he and all the members of his Council shall embody their opinions in formal minutes. The cases in which the Governor over-rules the majority of his Council are of course extremely rare. In my personal experience in Bengal I have never known such a case. This is probably because the Bengal Council (like other provincial Councils) has hitherto consisted of fonr members, including the Governor. In order, therefore, that the Governor may secure his own ascendency, all that is necessary is that he should obtain the acquiesence of one member of his Council. The Council is then divided two against two and the Governor carries the day by his casting vote.

10. In the every-day working of the present system of Council Government, not only is it extremely rare (almost unknown) for a Governor to over-rule the majority of his Council, but it is comparatively rare for a case to come to Council at all. I have no statistics before me, but I doubt whether more than three per cent. of the total number of cases are dealt with in Council. Through the whole system, however, runs the guiding principle that the voice of the majority prevails. To make this clear I would refer to the statutory Rules of Business, framed for the Bengal Council. The allotment of departments to the portfolios of the different members rests entirely with the Governor (Rule 1). On the other hand, no department is allotted absolutely to any member; it is allotted to him only "for the purposes of the first perusal of papers and the initiation of orders thereon" (Rule 2). Thus from the very outset the corporate character of the administration is strongly emphasized. The member in charge may dispose of all cases of minor importance (Rule 4), but in all cases of major importance he must first submit the papers to the Governor (Rule 5). On receiving the papers the Governor may concur with the member in charge and direct that orders shall issue at once; but whether he concurs or does not concur he may direct that the case shall be considered by the whole Council and decided by a majority of votes (Rules 18-19). Moreover, all important letters received from the Secretary of State or the Government of India are circulated to every member of Council, not only those which relate to his own departments but also those which relate to other departments (Rule 6), while the Governor circulates to each member a weekly table showing what cases have been disposed of by himself and by the other members (Rule 10). Each member is therefore kept informed of all the important work on the files of his colleagues and he has a right, which is freely exercised, of calling for the papers on any subject (Rule 13). On receiving the papers he may ask the Governor to have the case decided according to the votes of the whole Council. Technically, the Governor has the right to refuse this request, but I cannot remember any case in which it was refused. In practice the case is always decided according to the votes of the majority, either at a meeting

or otherwise (Rule 20). It therefore follows that although the bulk of the work does not actually come before the whole Council each member disposes of his work in a corporate atmosphere. He recognises that when he passes even a routine order he must be prepared, if necessary, to justify it before the whole Council and secure a majority in his favour. In the diarchic, or compartmental, system all this will be changed. The allotment of departments to the various members will no longer rest with the Governor but will be regulated (as I understand) by statutory lists framed by the Secretary of State and modified from time to time on the advice of a Parliamentary Commission. Each member will regard his portfolio as a water-tight compartment with which no other member can interfere Not only will the practice of voting as a Council wholly disappear but apparently no member will have a right to call for any papers which relate to the portfolio of another member. He will be entitled to express an opinion, though not to record a vote, upon any case which the Governor, after consultation with the member in charge, places before him. I cannot see how, in these circumstances, any member of Government, whether official or non-official, can fairly be asked to make himself responsible for, and to defend before the public, all the acts of his colleagues. It is true of course that in the present system a member of Government may find himself in a minority in the Executive Council and yet be called on to defend before the Legislative Council the opinion of the majority of his executive colleagues. I have often seen this happen, and I give testimony to the loyalty with which the task has always been performed. The member concerned feels that he belongs to a corporate body in which all questions must be decided by a majority; that he has had "a fair run for his money" and has been beaten in a fair vote; that he has deliberately decided not to tender his resignation; and that it is therefore up to him to support his colleagues knowing that on a future occassion and in similar circumstances they will do the same to him. I have of course no personal experience of Cabinet Government in Great Britain, but I have no doubt that like Council Government in the provinces of India, it is made workable only by the spirit of camaraderie, of give-and-take, and above all of loyalty to the majority. This spirit must, I fear, be altogether absent in any compartmental system. It is therefore that I strongly urge that the new system, like the old, should be corporate and not compartmental.

11. I am of course aware that the compartmental scheme has been put forward as the only possible scheme which can secure the "progressive realisation of responsible government" coupled with an immediate and substantial step in that direction. I confess that I am unable to follow the arguments by which this view is supported. I have carefully considered the various schemes set forth in paragraphs 216, 217 and 242-246 of the Report and the grounds on which they were rejected. To my mind however these schemes are not the only possible alternatives to diarchy. I shall briefly explain my own proposals. As an essential preliminary I would suggest that the words "not exceeding four" should be removed from section 47 (1) of the Act of 1915. The Executive Council of each province could then be constituted on a liberal scale suitable to each province. The numbers would vary according to local conditions, but generally speaking the Executive Council would

consist of a Governor and six members. Of the six members, two, at the outset, would be officials, two would be ministers (to adopt the convenient phrase in the Report), and two would be nominated non-officials. The officials and the ministers would have portfolios and would be in a complete equality in the matter of pay, status and designation; the nominated non-officials would be unpaid and without portfolios. The Councils would be wholly corporate, just like the present Councils, and they would contain from the outset a clear non-official majority. If the Councils were at once reconstituted on this basis no one could deny that a "substantial step" had been taken on the road towards responsible government. Moreover, the scheme contains the germs of future expansion—first in a gradual increase in the proportion of ministers in the Cabinet of six, and secondly in the distribution of portfolios among the ministers and non-ministers, so long as the latter remain. That in addition to his personal responsibility for the departments in his immediate charge each member of the Cabinet, whether minister or non-minister, should have an indirect and corporate responsibility for the other departments is, to my mind, a distinct advantage rather than a disadvantage. Finally, I should make it clear that in my scheme the Governor would retain his existing statutory power of overruling the majority of his Cabinet in order to preserve the "safety, tranquillity, or interests of his presidency." The ultimate authority of the Secretary of State, and through him of Parliament, would thus be amply safeguarded.

12. So far I have been considering the question of Provincial Governments from a general point of view. I now turn to the case of Assam. Here it is a genuine pleasure to be able to note that my views are in practically complete unison with those of the Hon'ble Mr. Kamini Kumar Chanda, the elected member who now represents Assam in the Imperial Legislative Council. The Hon'ble Member writes as follows:—

> "Instead of division of the Government into two parts, *viz.*, an executive council regarding the 'reserved' subjects and a minister or ministers under the Governor as regards 'transferred' subjects, I would suggest that there should be one provincial Executive consisting of the Governor and a Cabinet, not more than half of the members of which should be appointed from outside the Legislative Council (Provincial) and one-half of this half should be non-official Indians. The remaining half of the Cabinet should be drawn from the Legislative Council appointed by the Governor. All the members of the Cabinet must vacate their office with the close of the Governor's term of office, but would be eligible for re-appointment. All the members of the Cabinet should have the same official designation, receive equal pay and have the same status. Members appointed from the Legislative Council should be in a charge of 'transferred' subjects.
>
> Members in charge of 'reserved' subjects and those of the 'transferred' subjects to act together in all matters and form one undivided executive and deliberate upon all subjects, reserved or transferred, together and jointly decide

the common policy of the Government. The division into 'reserved' and 'transferred' subjects to refer only to the control of the Legislature, and not to create any division of responsibility within the executive government itself."

Whatever may be our differences on other points, I see little or no difference between myself and Mr. Chanda on the essential question of the constitution of the provincial government of Assam. Whether Mr. Chanda agrees with me, or disagrees with me, regarding the territorial distribution of our provincial government, I am unable to say. He has not discussed this question in his interesting note.

13. At this stage I would again revert to the accompanying map of Assam and to what I have written regarding the province in paragraphs 4 and 5 of this note. We must constantly remember that we are dealing with a small and poor province in which representative institutions are at present confined to two Valleys, separated from one another both geographically and ethnically, and each inhabited by a total population rather less than that of some Bengal districts. On this slender foundation how are we to build up the imposing and expensive structure of a Governor in Executive Council? At present the Chief Commissioner administers the province with the help of the three Secretaries (including the Chief Engineer), three Under-Secretaries, ten Heads of Departments, and two Divisional Commissioners—also twelve District Officers and three Political Officers. The Political Officers are immediately subordinate to the Chief Commissioner and correspond with him direct. The District Officers are all subordinate to one or other of the Divisional Commissioners. After careful consideration I have come to the conclusion that to create a highly paid Council and to locate it in Shillong, interposed (so to speak) between the Secretaries and the Chief Commissioner, would be wrong in principle and ruinous to the province. The Administration already errs in the direction of being top-heavy, and I strongly urge that we should not make it more so A better and simpler plan would to raise the Divisional Commissioners (on their present pay) to the status of members of Government and to associate with each of them a minister chosen from among the elected members of the Valley concerned. The minister, as already indicated, would be a "Member of Council" and would receive the same pay as the ex-Commissioner. Personally I would have no objection to allow the elected members of each Valley to elect the minister for that Valley, but perhaps it would be better to say in the first instance that the elected members of each Valley will prepare a roster of three of their number who possess their confidence and are willing, if required, to accept the post of minister. The Governor would make his selection from this roster. As regards the distribution of work between the official member of Council and the minister, the latter would naturally be entrusted with all the popular subjects (local Self-Government, Education, Agriculture, Industries, etc.) so far as the plains are concerned; while the official members—*i.e.*, the officer who has hitherto been the Commissioner—would be entrusted with the remaining work in the plains and all the work in the hills. It must be distinctly understood that I am not proposing a subordinate divisional council, such as is sketched in paragraph 243 of the Report. The ex-Commissioner and the Minister will have their headquarters

together in the plains, but they will be colleagues, not subordinates of the Governor in Shillong. The officer who is now Personal Assistant to the Commissioner will be raised to the status of a "Secretary to Government." The letters which the District Officers formerly addressed to the Commissioner will now be addressed to the "Secretary to Government, Assam (or Surma) Valley." The Secretary will lay them for orders before the official member or the minister, as the case may be, and the orders will issue over the signature of the Secretary, as the final orders of Government. If however the case is one of considerable importance—in other words, falls within the category contained in Rule 5 of the Bengal Rules already mentioned—the case will be submitted to the Governor before the issue of orders. The file will go in original, just as it does in Bengal. On perusing the file, with the recommendation of the member in charge, the Governor will decide whether final orders are to issue at once or whether the case is to be held over for the next meeting of the whole Council. Similarly, in all cases which relate exclusively to one or other Valley the head of a department will address his correspondence to the "Secretary to Government, Assam (or Surma) Valley" and will receive his orders, through the same channel, from the appropriate member of Council. In fact, the relationship between the Governor and the members of Council, and the officers of Government generally, will be exactly the same in Assam as it is now in Bengal. I think I would only make two small changes. It is laid down in Rule 12 of the Bengal Rules that "no case shall be referred by one member of Council to another member personally for opinion, without the previous consent of the Governor." It seems not only unobjectionable, but highly desirable, that the ex-Commissioner and the Minister in the same Valley should consult one another with perfect freedom. I would therefore strike out this rule altogether. I would also modify Rule 13 so as to place it beyond doubt that when any member of Council asks to see the file of another member the Governor will never refuse his request, provided that the papers can be spared at the moment.

14. Of course many details will require to be worked out—such as the custody of files, the distribution of cadres, and so on—but I have written enough to indicate plainly what is the nature of the scheme which I recommend. It will, I trust, involve a minimum of extra cost and a minimum of departure from the existing course of business. It will also secure an automatic measure of decentralisation at the same time that it introduces real self-government into each Valley.

15. In paragraph 11 of this note I have suggested as a general proposition that the Executive Councils of provincial Governors should, in addition to officials and ministers, contain an element of non-officials without portfolios. I regard this as of great importance everywhere and of particular importance in Assam. If there is to be an Executive Council in Assam it is essential that all the great communities of the province should be represented on it. For example, if the two first ministers are a Hindu from the Assam Valley and a Muhammadan from the Surma Valley, I would complete the Executive Council by the addition of a Hindu from the Surma Valley and a representative British planter. These additional members would be unpaid and without portfolios, but they would have the full status of members of

Council, would receive papers on circulation, would be entitled to call for papers at their pleasure, and above all would be entitled to vote on every case at the meetings of the Executive Council. It might be well to leave a free hand to the Governor in nominating these additional members of Council, though personally I should almost always select them from the members of the Legislative Council. I need hardly add that as I have proposed that two non-officials should be additional members of the Executive Council I do not also propose that any officials (as suggested in paragraph 220 of the Report) should be appointed in this capacity.

16. I now turn to the question of the provincial legislature. I entirely agree that the present system of indirect election is radically bad and that the Council should be reformed and enlarged. At present it consists of 24 members :—

Elected by Indians	8	11
" " Tea Associations	3	
Nominated officials	9	13
" non-officials	4	
Total		24

I propose that the future Council should consist of 50 members, made up as follows :—

Elected by Indians	30	40
" " Britons	10	
Nominated officials	5	10
" non-officials	5	
Total		50

In addition to these 50 members the Governor and the two official members of his Executive Council would be *ex-officio* members of the Legislative Council. The two ministers would already be elected members, while the two "additional members" of the Executive Council would (if not already elected members) be among the nominated non-officials on the Legislative Council. Room should also be left for the appointment, as occasion requires, of two temporary "expert" members.

17. As regards the franchise for the Indian constituencies, I would refer to a separate note which I have caused to be prepared. Here I neeed only say that there are approximatly 600,000 households in each Valley. I should like to enfranchise the heads of all these 600,000 households, and I look forward to the time when this will come. For the present in order to bring the electoral roll into practical dimensions, I propose to confine the franchise to approximately one-fourth of the heads of households. To secure this I would lay down that a family income of Rs. 250 per annum, whether from land or from any other source, entitles the head of the family to a place on the electoral roll. The preparation of the electoral roll presents no practical difficulty. Lists of households, with the name of the head of each house, will be prepared in 1919-20 in connection with the census of 1921. For the purpose of the census each of these lists will be supervised by a responsible officer. I propose that this officer should receive from the Deputy Commissioner an instrument of instructions, based on the local conditions of his circle, which will enable him without real difficulty

to prepare a provisional electoral roll *pari passu* with his supervision of the census papers. The provisional roll will be published for criticism, and after the hearing of objections will be finally framed. I anticipate that objections will be comparatively few. Assuming that my estimate is correct and that the standard of Rs. 250 produces a roll of one-fourth of the heads of households, we shall obtain approximately 150,000 voters in each Valley. These will be divided into 15 suitable constituencies of about 10,000 each. It may be thought that 10,000 voters are too many to be managed. It is not, however, necessary that all the elections should be held on the same day, and it can easily be arranged that the poll shall remain open for three days or even a week. In a typical constituency of 10,000 voters it will probably be sufficient to open 5 polling stations, each in charge of a Sub-Deputy Collector. It is not likely that more than 7,500 voters will come to the poll. Each Sub-Deputy Collector will therefore have to deal with 1,500 voters. I have personally presided at Municipal and Local Board elections and I know that a presiding officer can deal with 500 voters in a day. If therefore the poll remains open for three days, the Sub-Deputy Collector will easily get through his work. If the poll remains open for a week, the task will be further simplified. I have only to add that as I have 65 Sub-Deputy Collectors in the province I would guarantee to complete all the elections within a month.

18. It will be seen from what I have written above that I propose to sweep away all "fancy franchises" and to proceed upon broad and democratic lines. A long experience of the villagers in their own homes has convinced me that their political instinct is quite as sound as that of the richer and more literate classes. I have recently been reading the history of England in 1867. Time has shown that true wisdom was found in the "Tea Room Party", rather than in Mr. Gladstone and Mr. Bright. Like Lord Derby I am prepared to take a "Leap in the Dark" and I have no fear of the consequences—provided that my recommendations are accepted in the matter of communal representation.

19. It will be seen from the annexed note that I have not proposed to give separate members to municipalities. This is not a question on which I have strong views, but as no municipality in Assam has a population of 15,000, I prefer on the whole that the municipalities should vote along with the surrounding country. In any case, Shillong Municipality must be somewhat of a problem. I suggest that it should be amalgamated with North Sylhet, which also includes the important town of Sylhet.

20. I have carefully considered the difficult question of communal representation. The principle has already been conceded in the case of the Muhammadans and of the Sikhs, and I can seen no reason why it should be refused in the case of other communities which have distinct interests and which, in the absence of communal representation, have no reasonable chance of adequate representation. To my mind it is immaterial whether the community concerned is, or is not, in a numerical majority in the area under consideration. The real questions are these :—*First*—Is the community one in regard to which it is desirable for political reasons that they should *now* be represented on the Council by spokesmen of their own race and religion? *Secondly*—

Has the community any real chance of being *now* so represented in the absence of a communal electorate? If the answer to the first question is "Yes" and the answer to the second question is "No," then I would brush aside all theoretical considerations, look the situation straight in the face, and grant a communal electorate. I have frequently disagreed with my late colleague Mr. P. C. Lyon, and on no question have we disagreed more completely than on the question of constitutional reform, but I desire to express my fullest concurrence with his letter to the "Times," dated the 8th August 1918. After discussing the question of communal representation he concludes as follows :—

> "The supporters of the new scheme who have had experience of the working of Legislative Councils in India ask for communal representation because they agree with its opponents that it is most important that Indians should learn to work together without consideration of class. It is by using it now to bring all parties together to share alike in public service and responsibility that we shall gradually persuade India that she can do without it."

So far as Indians generally are concerned, I am content to leave the case as stated by Mr. Lyon. So far as British non-officials are concerned I shall state the case in my own way.

21. In view of the recommendations in the Report it is almost unnecessary that I should put forward any arguments on behalf of communal representation for the Muhammadans of the province. Here, as elsewhere, they are a peculiar people with peculiar interests and it will be many centuries before they will amalgamate politically with their Hindu or Animist neighbours. They are in a slight majority in the Surma Valley but in a hopeless minority in the Assam Valley. Taking the two Valleys together they amount to one-third of the population, and I therefore propose to give them 10 members out of 30. If the Muhammadans have an electorate of their own, they should have no voice in the election of the remaining Indian members.

22. I have carefully considered the case of the Indian Christians, the Animists, the lower caste Hindus, and the Ahoms. If the Indian Christians had been of sufficient numbers, I might have recommended them for a separate electorate. It is true that in occupation and mode of life they do not differ widely from their Hindu neighbours, but in many ways they are a distinct community with peculiar interests and peculiar claims. Seeing however that in the plains of the province they number only 23,000 as against my standard of 200,000 for an Indian electorate, I have regretfully decided that I cannot recommend them for a separate electorate. As regards the so-called Animists, their number in the plains is about half-a-million, but they are far from homogeneous and are often difficult to distinguish from other branches of the same Mongolian stock who claim to have entered the fold of Hinduism. As the nominal Hindus of Assam are to a great extent non-Aryans who have gradually become "converted" I see no valid reason for giving separate electorates to those who have, and to those who have not, crossed the rather shadowy border-line. As regards the lower caste Hindus, such as the Kaibartas (131,000) or the Namasudras (173,000) or

the Patnis (111,000), the conditions in this province are fortunately different from those in Madras. I need only mention one luminous fact. The Hon'ble Babu Radha Binod Das, who now sits as member for a mixed constituency in the Assam Legislative Council, is a Kaibarta by caste. He has submitted an interesting note on the Report and has not even mentioned the subject of communal electorates. In the circumstances I do not propose to press for a communal electorate for the lower classes of Hindus in Assam. Lastly, I would invite attention to the claim which has been put forward by the Ahom community for a special electorate. This community numbers 197,000. It is one of the many Mongolian races which have entered Assam from the north or the west, have conquered the previous settlers, and have enjoyed a period of political ascendency. Like most of its predecessors, this race has now assumed Hindu names and affected Hindu customs. The length of the Ahom ascendency (600 years) and the comparatively recent date of its fall (less than 100 years ago) constitute some claim to special treatment, but, on the whole, especially in view of the formal embracement of Hinduism, I am not prepared to urge the Ahom claim or to distinguish it from that of the Rajbansis and Kacharis Rai Sahib Padma Nath Gohain Baruah will, however, appear before the Committee and will argue the case for his community.

23. It has been stated in paragraph 232 of the report that "where the great landholders form a distinct class in any province, we think that there will be a case for giving them an electorate of their own." The talukdars of Oudh were no doubt in the mind of the authors of the report I have carefully considered whether I can honestly recommend either that the permanently-settled mirasdars of Sylhet, or that the zamindar-families of Goalpara should be granted a separate electorate. I have come to the conclusion that neither claim can be established. If the zamindars of Goalpara had been more numerous, their case would have been strong, but I can hardly suggest that a separate electorate should be constituted from the representatives of seven families - Bijni, Sidli, Gouripur, Mechpara, Chapar, Parbatjoar and Karaibari I have proposed that the district of Goalpara should elect two Hindu members to the Legislative Council. I cannot see why one of the great zamindars should not stand and be elected. But even if they fail to enter the Council by election, I would certainly make a point of nominating one of them to the Council whenever an important Bill connected with the district is about to be discussed. At the present moment a member of the Mechpara family, a barrister by profession, is a nominated member of Council.

As regards the mirasdars of Sylhet, there are a few large proprietors in the district, but the great majority are merely cultivators who enjoy a permanent settlement. They will be amply represented by the 12 members who have been assigned to the district

24 I now turn to the case of the British non-officials. To speak freely, I consider that the main defect of the report is its inadequate recognition of the position of the non-official British community. It was as merchants and planters that the British came to India and it is essentially as merchants and planters that we are still here. The official British element is ancillary in function and accidental in form; the non-official British element is permanent and vital. So long as the

Government remained bureaucratic in character the non-official Briton was content in the main to go on with his work of trade or cultivation and to leave the business of Government to those members of his race who had taken up that business as their profession. But now that the whole character of the administration is to be changed, the non-official Briton is entitled to demand that both in the Legislative and in the Executive he shall be placed in such a position that his past history will never be forgotten or his present interests overlooked. He is not a bird of passage and he cannot be so treated. Whatever may be said to the contrary he is "an integral part of the population of India." British families and British firms have been in India for generations and (unless they are deserted by the British officials in whom they have trusted) will remain here for many generations more. Some of the community are technically known as domiciled Anglo-Indians, others intend to spend the last few years of their lives in the home country. Some again are of pure European descent, others have a mixture of Asiatic blood. But the whole community is bound together by ties of origin, of religion and of common interest. We, the Government officials, are in a position of trust. Whatever constitution we now frame must be a constitution in which the other members of our own community can feel that they are safe—that their property is safe, that their lives are safe and (what really matters) that the lives of their women and children are safe. I am convinced that the great body of Indians, high and low, desire the permanent presence of the British community, both official and non-official. But nothing can be gained by pretending that things which have happened did not actually happen; or that things which are now happening are not actually happening. The British community remembers 1857 and there is no reason why it should forget it. Moreover, it has studied the report of the Rowlatt Committee and it knows that a dangerous conspiracy, aimed at the expulsion or extermination of the British community, has ramifications in every province in India. No wonder that the British community demands that the new constitution shall contain real safeguards for its existence. It is true that the scheme as put forward contains many ingenious devices, specially designed for its protection. But the more thoughtful members of the British community have already come to the deliberate opinion—an opinion based on the political training of the British race—that the only real safeguard is the constitution of a separate British electorate which shall send to the Legislative Council such number of British representatives as shall make their presence felt; and as a necessary corollary that on the Executive Council of the Governor there shall be at least one representative of the non-official British community. With these views I am in whole-hearted sympathy.

25. What I have written above refers to India generally. The case for the non-official Briton is peculiarly strong in Assam. As I have already noted, there are 2,000 square miles of tea gardens in the province. The British community scattered through the two valleys and the hills numbered at last census 2,725 men and women. The non-official British community of Assam has taken a leading part in the work of local self-government throughout the province and it has now four members on the Legislative Council. Three of these are elected by the planting associations and one is a nominated member

representing the mining interest. In an earlier part of this note I have already proposed that there should be a non-official Briton upon the Executive Council of the Governor. I now propose that there should be a communal electorate for the British community based on manhood and womanhood suffrage and that this electorate should send ten members to the Legislative Council, six from the Assam Valley and four from the Surma Valley. I regard this as the irreducible minimum for the safety of the British community. I have not proposed that the Tea Associations, as such, should elect members. I prefer that Britons, as Britons, should be the electors. As the tea interest preponderates in both Valleys it is practically certain that the leading members of the Tea Associations will be elected to the Legislative Council. Should this not happen, recourse will be had to nomination.

26. Having explained my views regarding the constitution of the provincial executive and the provincial legislative I shall now deal as briefly as possible with the other matters contained in Chapter VIII of the Report. As regards the position of official members in the Legislative Council (paragraph 233), I agree that, except when the Governor otherwise directs, they should have freedom of speech and vote. I cannot, however, agree to the other proposition contained in this paragraph. I have already urged that in the Executive Council the official and the non-official members should be allowed to vote upon subjects relating to the portfolios of the other class. I would allow equal freedom in the Legislative Council.

27. As regards the designation of members, I have no comment to make on paragraph 234

28. In view of the fact that no non-official member of the Assam Legislative Council is resident or is likely to be resident in Shillong, but more especially in view of the structure which I have recommended for the future government of Assam, I cannot see that in the administration of this province, there will be any place for "Standing Committees" such as are outlined in paragraph 235 of the Report.

29. As regards the "control of business," I agree with paragraph 236 of the Report.

30. It is clearly undesirable (paragraph 237) that resolutions of the Legislative Council should be absolutely binding, whether the subject be on the portfolio of a minister or on the portfolio of an official member of Government. I think, however, that unless there are very strong reasons to the contrary, a resolution which only affects a subject on a minister's portfolio, without at the same time affecting a subject on an official portfolio, should be accepted. This should not, however, be a provision of law ; it should be a matter of constitutional usage.

31. I now turn to paragraph 238 of the Report with special reference to the list of subjects which, it is proposed, shall henceforth be earmarked as "provincial." I have felt no small difficulty in grasping the situation and in understanding what is now expected of me. The list which is contained in Appendix II of the Report indicates in a fairly complete manner what are the subjects whch are now dealt with by provincial Governments. I assume that "Finance" has been intentionally omitted as a separate subject, but even apart from this I would hesitate to say that the list is quite complete. I would,

therefore, deprecate any proposal which would involve a declaration (statutory or otherwise) to the effect that the subjects in this list, or any similar list, constitute the whole sphere of influence of the local Government, and that all subjects not in the list are in the hands of the Government of India. Whether it is, or is not, proposed that some such declaration should be made and that the committee which is now on its way to India should prepare the draft for that declaration is the point on which I am in doubt. I have of course consulted many non-officials, both British and Indian, about the Report. In their individual answers they almost all avoid this list, evidently regarding it as a detail of no importance. As requested by the Government of India, I attempted to obtain from the non-official members of my Legislative Council a corporate opinion upon this list. I put to them the following written questions:—

> "Do you consider that the local Government should, as far as possible, be independent of the Government of India? If so, do you consider that the Report contains adequate proposals to secure this end, both as regards finance and as regards other matters of administration? Have you any suggestions concerning the Illustrative List of Provincial subjects contained in Appendix II of the Report?"

I obtained the following written answer:—

> "It was unanimously agreed that the local Government should be, as far as possible, independent of the Government of India. The Report was not considered to have made adequate provision for finance, in which matter it was agreed that Assam as a backward province should have more lenient and preferential treatment than other provinces and that the contribution from the gross provincial surplus to the Government of India should be materially reduced The Illustrative List of Provincial subjects was considered adequate and no suggestions for amendment were offered."

In so far as this answer deals with the amount of Assam's "tribute," it is interesting but hardly relevant; while in so far as the answer deals with the "List of Provincial subjects" it is of little or no help, but is far from being uninstructive.

It shows that the non-official members of our Legislative Councils, and still more the general public, have got no conception of the respective functions of the Government of India and the local Governments. As a matter of fact, in every department, both those included and those not included among the 29 subjects in List I, certain functions are performed by the Imperial, and certain others by the Provincial Government. For example, even in such a purely Imperial Department as the Army, the local Government performs important functions in connection with the Indian Defence Force. In the Imperial Railway Department the local Government does much work in the matter of alignments, waterways, heights of bridges, acquisition of land and so forth. Even in the Imperial Postal and Telegraph Department it is the local Government which has to decide whether the letters of an individual should be opened and read. Turning back to the 29 listed subjects, it will be

convenient to reproduce paragraph 50 of the Report of the Decentralization Commission:—

"The control of the Government of India over the Provincial Governments is at present exercised in the following manner:—

(i) By financial rules and restrictions, including those laid down by Imperial departmental codes.

(ii) By general or particular checks of a more purely administrative nature, which may (a) be laid down by law or by rules having the force of law or (b) have grown up in practice.

(iii) By preliminary scrutiny of proposed Provincial Legislation, and sanction of Acts passed in the Provincial legislatures.

(iv) By general resolutions on questions of policy, issued for the guidance of the Provincial Governments. These often arise upon the reports of Commissions or Committees appointed from time to time by the Supreme Government to investigate the working of departments with which the Provincial Governments are primarily concerned.

(v) By instructions to particular local Governments in regard to matters which may have attracted the notice of the Government of India in connection with the departmental administration reports periodically submitted to it, or the proceedings volumes of a local Government.

(vi) By action taken upon matters brought to notice by the Imperial Inspectors General.

(vii) In connection with the large right of appeal possessed by persons dissatisfied with the actions or orders of Provincial Government."

In every one of these 29 subjects—which are at present deemed to be provincial and which it is proposed to earmark still more clearly as provincial—the Government of India exercises its control by one or more of the seven methods, sometimes by all the seven methods, set forth by the Decentralization Commission. Is it proposed that we should now go through these 29 subjects, see how far the seven methods have been applied to each of them in the past and recommend how far, if at all, the seven methods should be modified or discontinued in the future? Such a process, I submit, would be neither profitable nor desirable. As I have already indicated, the non-official community, especially in a province like Assam which has hitherto been under personal rule, is unable to give us the slightest help. In the second place, the official community, both before, after, and during the enquiry of the Decentralization Commission, has already examined the problem *ad nauseam* and is unlikely, without non-official assistance, to bring about any marked reform. On the whole, therefore, I think it would be a mistake to attempt, simultaneously with the allotment of subjects to the portfolios of popular ministers, to make any fresh discrimination, statutory or otherwise, between the functions of the Imperial and the Provincial Governments. In fact, I would leave this matter exactly as it is left in paragraphs 212 and 213 of the Report. As soon as ministers are established in the Provincial Governments, the Imperial

Government will naturally begin, both in the sphere of legislation and in the sphere of administration, to ride the local Government on the snaffle, particularly in so far as the portfolios of the ministers are concerned. This habit of non-interference will gradually become more and more marked until it develops into a definite constitutional practice. Personally I do not anticipate that it will be necessary at any stage either to enact new laws or to frame new statutory rules. If, however, the necessity does arise, we shall have at our disposal a body of ministers from all parts of India who can speak from personal experience of the inner working of the administrative machine. Ten years hence they will know where the shoe pinches: to-day they do not. I therefore think it would be wise to confine ourselves for the present to considering what subjects should be allotted to the portfolios of provincial ministers.

32. The first question which naturally arises is whether there should be any statutory obligation in the distribution of departments or whether it should be left, as at present, to the discretion of the Governor, guided by constitutional precedent. In Great Britain, as far as I am aware, the Prime Minister has in the main a free hand in the distribution of the departments between members of the House of Commons and members of the House of Lords. There is, or was recently, some customary restriction as to the distribution of "Secretaries of State" between the two Houses. There is also a constitutional practice that the Chancellor of the Exchequer, the Home Secretary and a few other Ministers should be members of the House of Commons: but apart from this the Prime Minister's discretion is unfettered. On the whole, I recommend that the Governor in an Indian province should have a similarly free hand. It will soon become a constitutional practice that certain departments, such as Education, local Self-Government, and Agriculture, are assigned to the Ministers; but I would deprecate any statutory distribution.

33. I now turn to List II, which contains suggestions regarding subjects suitable for the portfolios of ministers. The first item is "Taxation for provincial purposes." This can be more suitably examined in connection with budget procedure (paragraphs 255—257). As regards the remaining subjects, I agree that, so far as the plains of Assam are concerned, the following departments are quite suitable for the portfolios of ministers :—

Local Self-Government (No. 2).
Registration of Births, etc. } (No. 3).
Village courts } (No. 3).
Provincial Statistics } (No. 3).
Education, excluding Collegiate (No. 4).
Medical and Sanitary (No. 5).
Agriculture (No. 6).
Co-operative Credit (No. 7).
Fisheries (No. 8).
Charitable Endowments (No. 12).
Industries (No. 13).
Registration of Deeds and Documents (No. 14).

I do not suggest that all these subjets should necessarily be made over to the ministers either on the first occasion or on any future occasion.

To begin with, I would probably give them local Self-Government, Education, Agriculture and Industries. After all, the ministers will be inexperienced in official work and should not be overburdened at the outset. Moreover, the official members of Council —*i. e.*, the officers who were formerly Divisional Commissioners—should be fully employed. It will be noticed that there are certain subjects in List II which I have not proposed to assign to the ministers in Assam. The first of these is " Forests." It must be remembered that a great portion of the forests of Assam lies in the area which is outside the jurisdiction of the ministers. Moreover, even in the plains the forests are in an undefined and undeveloped state. The process of reservation is altogether incomplete. At some future date, when the State has demarcated all the areas which it desires to preserve as State forests it may be possible to assign the " unclassed " or residuary forest to the portfolios of ministers. At present the subject should be excluded, being dealt with by the Governor personally. The next subject which I have omitted is " River Conservancy." I confess that I am not quite certain what this means. If it means the training and dredging of the great water-ways, the subject is certainly unsuitable for a minister's portfolio : it is in fact a branch of " Major Irrigation," and the only question is whether it should be " Imperial " or " Provincial." If, on the other hand—as might appear from the context—" River Conservancy " only means the preservation of rivers from the attention of poachers, the subject will naturally be classed along with " Fisheries." As regards " Public Works," this Department is of such vital importance in an undeveloped province like Assam that I would retain it for a considerable period in the personal portfolio of the Governor. In so far as roads and buildings may hereafter be transferred from departmental control to the control of local bodies they will automatically come within the portfolios of the ministers concerned. It is in regard to other branches of the department that I suggest that the Governor should retain personal administration. " Excise " is another subject which should, I think, remain in the Governor's personal portfolio. It is a subject of great difficulty in Assam, particularly in its relationship to the tea garden population and to the primitive tribes. In excise administration these tribes are a cause of constant anxiety—both those who remain in the hills and those who come down to the plains, either permanently or on temporary visits. As regards " Preservation of wild birds and animals," " Cruelty to animals " and " motor vehicles " I would retain them on the Governor's portfolio—unless indeed the minister happens to be a British non-official or an Indian who is specially interested in those subjects. " Prevention of gambling " is a minormatter, but I cannot see why it should be separated from other branches of " Police." Finally, as regards " Franchise, electoral law and constituencies," I hold most strongly that they should remain permanently upon the portfolio of the Governor. Owing to the importance of this subject it will always be dealt with in full Council. It would be unfair to a minister to entrust this subject to his personal charge and to lay him open to constant accusations of " gerrymandering the constituencies."

34. It is perhaps unnecessary to point out that what I have written in the last two paragraphs is based upon two assumptions—first, that no subject connected with any of the hill districts is included in the port-

folio of a minister; secondly, that the Government of Assam is a corporate Executive Council constituted on the plan which has been recommended both by the Hon'ble Mr. Chanda and by myself. I have therefore refrained from using the expressions "transferred" and "reserved," which are not strictly applicable to our scheme. We agree in thinking that in all matters the Executive Council should act as a whole. We agree in thinking that the ministers should receive their representative character from a vote of the non-official members of the Legislative Council, and we agree in thinking that (like the President of the United States) they should retain office for a definite period, at the end of which there will be a fresh election. Finally, we agree in thinking that, so far as the work of administration is concerned, the main difference between the departments on the portfolios of ministers and the departments on the portfolios of officials is that the former should be subject in a greater degree to the control of the Legislative Council by the process of "resolutions." Mr. Chanda would, it is true, make that control absolute, while I would only place it upon the same footing as the similar control in the House of Commons. Our point of difference is comparatively slight.

35. As regards the "settlement of disputes," which is dealt with in paragraph 239 of the Report, I agree that in the last resort the decision must lie "definitely and finally with the Governor;" but in the scheme of corporate Government which commends itself to Mr. Chanda and myself it is difficult to see how disputes will arise. In any case the dispute will merely concern the right of "the first perusal of papers and the initiation of orders thereon." This is a comparatively unimportant point, as the final order will be passed by the whole Council.

36. I have already made it clear that the Governor should retain the statutory personal powers which are vested in him by section 50 (2) of the Act. Similarly, the Governor General in Council should retain his statutory power of issuing orders on any point to a local Government and of seeing that those orders are obeyed [section 45 (1)]. Not only so, but the Governor General should retain his personal power of issuing orders to a local Government even without the concurrence of his Council [section 41 (2)]. I would leave all these provisions on the statute exactly as they are, and I would not weaken them by attempting to define the circumstances in which they should be exercised. The right of "re-entry" or "intervention" will thus be amply secured. I would not, however, vest power (as is, I think, contemplated by paragraph 240) in the provincial Governor and his official colleagues of overriding their non-official colleagues who happen to be in a majority. The Governor must either take action on the advice of the majority of his Council, or he must take action on his personal responsibility. In cases of the second kind his official colleagues may in fact agree with him, but the responsibility must be his own.

37. As I have already expounded my own proposals for Assam, and have explained how far they differ from the standardized proposals of the Report, I pass over paragraphs 241—246 and come to paragraphs 247—254, which deal with the important question of how best to secure the "affirmative power of legislation." I may say at once that, looking at the proposal in its general aspect, I frankly dislike the whole scheme of "certificates" and "grand committees." It has some resemblance,

it is true, to the system of *senatus-consulta*, by which the Roman Emperors at one time secured their affirmative legislation (Justinian 1-1-5); but this was soon abandoned in favour of the more straightforward system of *principium placita*. There was no longer any question of packing a subservient Senate to register the Emperor's decree. He simply exercised the "*imperium et potestas*" which were inherent in his office,—"*Sed et quod principi placuit legis habet vigorem*" (Justinian 1-1-6). I should like to see this maxim applied, whenever real necessity may arise, to Provincial legislation throughout India. So far as Assam is concerned, the situation is already clear. By a series of "resolutions in council" the Secretary of State has extended to the whole of Assam the provisions of what is now section 71 of the Act of 1915, and it is contemplated in paragraph 283 of the Report that these provisions shall remain in force. Much of the substantive law of Assam—the Land and Revenue Regulation, the Local Rates Regulation, the Forest Regulation, etc.—has been enacted under these provisions. In this province, therefore, there will be no difficulty in the future, as there has been no difficulty in the past, in securing such affirmative legislation as is necessary. I do not anticipate that the Assam Legislative Council will prove to be an unreasonable body, but if this should ever happen, the bill in question can be withdrawn and submitted to the Governor General in Council under section 71 (1) as the "draft of a regulation for the peace and good government of Assam."

38. I now turn to the question of Budget Procedure (paragraphs 255-257). In this matter, as in matters of general administration, my views appear to be in unison with those of Mr. Chanda. The budget will be prepared by the whole Executive Council and the allotment of funds between the different portfolios will be determined as usual by a majority of votes. In extreme cases the Governor will over-ride the majority of his Council by virtue of his statutory powers under section 50 (2). Mr. Chanda, I note, has not proposed the repeal of this provision, so presumably he recognises its necessity; but he doubtless agrees with me in thinking that it will seldom be put in force. In almost every year the budget as presented to the Legislative Council will either represent the unanimous opinion of the Governor and his Executive Council, or else the opinion of the majority. As regards resolutions on the budget, I agree with Mr. Chanda that they should be binding, or at least practically binding, in so far as they merely involve the transfer of funds from one object to another within the portfolio of a minister. If, however, a resolution relates directly or indirectly to the Governor's own portfolio or to the portfolio of an official member, the matter should immediately be considered at a meeting of the Executive Council and decided in the usual way, either by a majority of votes or (in extreme cases) by the personal prerogative of the Governor.

39. This brings us back to the question of provincial taxation. Several critics have objected to the proposal (paragraph 257) that the odium of proposing such taxation should be thrown entirely on the minister. I sympathize with this objection. I hold strongly that in this, as in all other matters, the Executive Council should act jointly and accept joint responsibility. It has also been suggested that all proposals for provincial taxation should receive the previous approval of the Government of India. Seeing that all such proposals, whether initiated

by a private member or by the Governor in Council, must be embodied in a bill, and seeing that I propose no immediate change in the existing procedure by which all bills are first submitted to the Government of India, it will be recognised that I practically accept this suggestion.

40. As regards "upper houses" in provincial Legislative Councils, I am in agreement with paragraph 258 of the Report. They are premature and need not be considered.

41. Similarly, I accept the conclusions of the Report (paragraph 259) in the matter of the relations of the Executive Officer in each province to the new Government which will be established. There will obviously be less difficulty in the scheme which I support than in any scheme of a compartmental nature.

42. As regards future development, I agree generally with the proposal contained in paragraph 260 of the Report. I think, however, that the life of a provincial Legislative Council is at present too short. I would extend it to five years, and I would give the new constitution a fair trial before any fresh systems are proposed. In other words, I would wait until the middle of the second Legislative Council—say seven years from the inauguration of the present reforms. During that time the Governor, the Executive Council and the Legislative Council in each province should be left to work out their own salvation. At any time after the expiry of the seven years it should be open to the Governor in Council, or to his Legislative Council, or to both jointly, to address the Secretary of State, through the Government of India, requesting that the local system should undergo certain specified modifications. These modifications might relate to the constitution of the provincial government; to the constitution of the provincial legislature; to the distribution of departments among the portfolios of officials and non-officials; to the control of the local legislature over the local government in financial and other subjects; to the control of the Government of India, whether legislative, financial, or administrative; and to any other branch of the local system which appears to be ripe for reform. The Secretary of State in Council, with the help of his "Select Committee," would consider the recommendations of the local authorities and the report of the Government of India and would pass such orders as are suitable. If he sanctioned any important changes, he would fix a period—probably another seven years—during which the province in question should have constitutional rest. It will be seen that I do not propose that it should be obligatory on the authorities of any province to propose changes either at the end of the first seven years, or at the end of any subsequent term of years. If they are satisfied on the whole with the working of the local system, they can wait for longer periods before addressing the Government of India. It will thus, I hope, come about that the constitutional problems of the different provinces are in future considered separately, each at its own time and each on its own merits.

43. It follows from what I have written above that I am not in favour of the periodic commissions which are contemplated in paragraphs 261-262 of the Report. I accept it as constitutionally inevitable, rather than support it as politically beneficial, that the future developments of provincial Self-Government should be subject to parliamentary control and management. I am convinced, however, that such control and encouragement can best be exercised by the Secretary of State in Council,

assisted by his "Select Committee on Indian affairs." He would ordinarily perform this work sitting quietly in London, taking up each case as it arises. If, however, the problem of any province presents peculiar difficulties, it will always be open to the Secretary of State, accompanied by a small deputation from his Council and his Select Committee, to visit the province in question along with the Viceroy and the local Governor and to solve the problem on the spot. I strongly deprecate the proposal for periodic Royal Commissions. I do so for two reasons—in the first place, because they will come at stated intervals, and in the second place, because they will cover the whole of India. I can imagine nothing more unsettling, nothing more subversive of good government, than to know that in a given year the administration of every province will be subjected to a general inquisition from an outside body of unknown personnel. As the year approaches, the task of government will become more and more impossible and the real interests of the people will inevitably be neglected. My second objection to the proposal is that a Commission which attempts to cover the whole of India will only dislocate the administration of each province without acquiring any real knowledge of its local conditions. I would illustrate my objection by pointing out that it has actually been proposed to me that the two committees which are now on their way to India should deal with the case of Assam without even setting foot in the province. I have naturally lodged a protest, but the most that I can hope is that two or three members of each committee will spend a few days among us and will see the outskirts of a province which cannot be studied in less than a year.

44. I now come to Chapter IX of the Report, and as I have never served in the Government of India, I propose to be very brief. I agree (paragraphs 271-272) that the Executive Council of the Governor General should be enlarged, but I urge most strongly that not only the non-official Indian community, but also the non-official British community, should be definitely and adequately represented on the central governing body. As in the case of the provincial executives, I suggest that there should be some non-official members, British or Indian, without portfolios.

45. I agree (paragraphs 273-274) that the Indian Legislative Council should be reformed and enlarged. In a Council of 100, I would have 80 elected and 20 nominated; but I regard it as essential that among the 80 elected members at least 20 should represent the non-official British (and Anglo-Indian) community, Muhammadans, Sikhs, non-Brahmans, and Indian Christians should also be adequately represented. There should be no difficulty in providing direct electorates in the case of the British and Anglo-Indian communities. I have recommended manhood and womanhood suffrage for the British electorate for the Assam Legislative Council. I would recommend a similar suffrage, with a minimum age of 45, in the case of the British electorate for the Indian Legislative Council. The constituency will thus be limited to voters of ripe experience. In the case of also Indian Christians it will perhaps be possible to arrange a direct electorate, but I agree that, generally speaking, we are almost compelled to resort to indirect election and that the non-official members of the Provincial Councils provide perhaps the most suitable field. I strongly urge that Assam should elect at least three members, one Hindu, one Muhammadan and one Briton.

46. As regards nominated members, parliamentary Under Secretaries, independence of official members and selection of the president, I find myself in agreement with paragraph 275.

47. For the reasons given in connection with "Grand Committees" in provincial legislatures I dislike the whole scheme of a "Council of State" (paragraphs 276-284). On the other hand, I am attracted by the proposal for a Privy Council (paragraph 287). In Great Britain, as I understand, the Cabinet is theoretically nothing more than a working committee of the Privy Council. I should like to see it similarly recognised that the Viceroy's cabinet is a working committee of a larger body known as the Indian Privy Council. In times of emergency, particularly when the Viceroy feels called on to take strong executive action, it is most desirable that he should have a body of wise men from each and all of whom he has a right to seek confidential advice. For example, he may feel called on to overrule the majority of his Cabinet upon a matter of high policy; or he may feel called on to secure affirmative legislation in the straightforward manner which appeals to him. In the latter case he may be acting with the advice, or he may be acting against the advice, of his Cabinet. He is almost certainly acting against the known wises of the majority of his Legislative Council. In such a crisis a prudent ruler will welcome an opportunity of consulting his Privy Councillors. As to the manner of his consultation, I would not restrict his discretion. He should be entitled to consult them singly, or in a body, as he sees fit. In any case the ultimate responsibility will be his own. The members of the proposed Council of State have been described as "Elder Statesmen." I would rather apply the title to the Privy Councillors.

48. I have no remarks to make about "Standing Committees" (paragraph 285) or "Question and Rules of Procedure" (paragraph 286).

49. From what I have written in regard to Provincial Governments it will be seen that I cannot bring myself to support any proposal for periodic commissions (paragraph 288). The procedure which I have advocated in paragraph 42 of this note will apply, *mutatis mutandis*, to the constitutional development of the Government of India. I cannot see that anything more is required.

50. As regards Parliament and the India Office, I would reserve my final opinion until I see the report of the committee which is mentioned in paragraph 293. Partly however, because I have been unable to accept the scheme of "reservation and transfer," and partly on general principles, I am at present inclined to think that Parliament and the Secretary of State should not divest themselves, either by statute or by statutory rule, of any of their functions of control. The actual control should gradually become less and less stringent, particularly in the departments which are entrusted to responsible ministers; but the process should be one of constitutional desuetude rather than legal prohibition. As regards the salary of the Secretary of State, I agree that it should be defrayed from Home revenues and voted annually by Parliament.

51. Finally, as regards "Select Committees," I have already alluded to them in paragraph 42 of this note. I would only urge that they should be drawn jointly from both Houses. By this means alone will it be possible to secure the services of ex-Viceroys and ex-Governors of presidencies.

The 24th October 1918. N. D. BEATSON BELL.

APPENDIX I.

Statement of income and expenditure of the Hill districts in Assam for the year 1917-18.

Name of District.	Receipts.	Total expenditure	DEDUCT.		Net expenditure.
			Secretariat and Heads of Departments.	Assam Rifles.	
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	Rs.
Garo Hills	2,25,094	2,46,723	...	...	2,46,723
Khasi and Jaintia Hills .	3,53,858	24,50,651	14,27,108	...	10,23,543
Lushai Hills . . .	1,05,494	6,38,366	...	3,83,488	2,54,878
Naga Hills . . .	1,19,689	5,97,572	...	2,86,724	3,10,848
North-East Frontier . .	58,369	7,85,957	...	3,01,927	4,84,030

APPENDIX II.

Additional Note on the electorates proposed for Assam.

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1. In the main note I have explained the general plan on which I recommend that the electorates should be framed. The basis of my plan is the census "houses" which is thus defined:—

> "A house consists of the buildings, one or many, inhabited by one family; that is, by a number of persons living and eating together in one mess, with their resident dependents, such as mother, widowed sisters, younger brothers, etc., and their servants who reside in the house. In other words the unit is the commensal family, known in some districts as the *khana*, and not the homestead or enclosure."

This conception of a house is familiar to the people, and the census has made it still more familiar. Further, each house has a recognised head commonly known as the *Karta*. My goal is the enfranchisement of all the *Kartas*, approximately 600,000 in each Valley; but for the present I must be content to take about one-quarter of this number, say 150,000 in each Valley. My predecessor proposed to bring the numbers into reasonable dimensions by a somewhat elaborate franchise, based on alternative qualifications. In raiyatwari areas he proposed that payment of Rs. 20 as land revenue should be the standard. In zamindari areas he proposed that the payment of a certain sum as chaukidari rate should be the standard—Rs. 1-5 in Sylhet and Rs. 1-12 in Goalpara. The payment of income-tax, the enjoyment of salary of Rs. 50 per month, or a pension of Rs. 25 per month, the possession of a title or decoration, and the attainment of a certain standard of education, were also to be qualifications. I determined, if possible, to get rid of all fancy franchises, and I went for light and guidance to the late Major Jack's remarkable little book "The Economic Life of a Bengal District." He has shown on the basis of house-to-house enquiries and the tabulation of most elaborate statistics that 49 per cent. (say, one-half) of the agricultural households in Faridpur are in a state of "comfort" and have an average income of Rs. 360 per annum. As this is an average figure, about one-half of those "comfortable" households may be assumed to have an income of Rs. 360 and upwards, while the other half have an income of something under Rs. 360. In other words if a line be drawn at Rs. 360, about one-quarter of all the households in the district will fall on or above the line, while three-quarters will fall below the line. It is obvious that if we were dealing with Faridpur and were in search of an electorate embracing the "comfortable quarter" of the households no better criterion could be obtained than the tables of Major Jack. I have carefully considered whether it is possible to apply a similar criterion to Assam. From my personal knowledge of Faridpur and my personal knowledge of Assam, I am convinced that the answer is in the affirmative. Seeing, however, that

jute is less prevalent in Assam than in Bengal, I would fix the criterion in Assam—subject to exceptions in poorer constituencies—at Rs 250 per annum. This criterion should apply to all classes of the population, agricultural or otherwise. In particular the labourers on tea gardens should not be excluded. In their case each "separate doorway" in the coolie lines is classed as a "house." In a coolie family the men, the younger women, and the older children, all work. It is therefore by no means uncommon to find that a coolie family, using a separate doorway in the lines, has a joint annual income of Rs. 250. The head of such a family should not be placed in a worse position than the head of any other family, agricultural or industrial. I have already mentioned that there are half-a-million actual workers on the tea gardens. If workers and non-workers be reckoned, and if we add the population which came to Assam as labourers and afterwards settled down as independent cultivators, it may safely be estimated that 1¼ millions—say one-quarter of the population of the plains—are either labourers or ex-labourers in tea gardens. Moreover, there is no section of the population which is more vitally interested in legislation, past, present, and future. I am therefore persuaded, and I feel sure that the British non-officials will agree, that the respectable families in the coolie lines should be placed on an electoral equality with the respectable families in the villages.

2. As explained in the main note, I propose that the electoral rolls should be prepared as a "by-product" of the forthcoming census. I readily admit that it will be impossible for the supervising staff of the Census to devote the same meticulous care to the calculation of family incomes as was devoted by Major Jack's trained staff in Faridpur. But it will be quite possible for each Deputy Commissioner to issue such instructions as will secure the desired object—the earmarking of the most comfortable quarters of the households. The statutory rules should be as simple if possible, but their working should be as elastic as possible. In each district it should be left to the Deputy Commissioner, subject to the control and advice of the Commissioner, to lay down tests in accordance with which the families of each constituency should be "deemed to possess" the necessary income. For example, the test in one place might be the cultivation of 5 acres of land; in another the payment of Rs. 15 as land revenue; in another the payment of Rs. 20 as rent to a landlord; in yet another the payment of Rs. 1-8 as chaukidari tax. My point is that none of these working tests should be embodied in the statutory rules. They should be left to the discretion of the local officers.

3. Some of my officers have represented that in certain parts of the province the general criterion of Rs. 250 per annum is too high and will not produce the necessary "quarter." I can well believe that this is so. I therefore propose that even in the statutory rules there should be an element of elasticity. The criterion might be "an annual income of Rs. 250, or in the poorer constituencies such smaller sum as the Chief Commissioner may direct."

4. An alternative method of reducing the electorate to reasonable dimensions would be to fix a high minimum of age. For example, it might be laid down that the head of every household is entitled to the franchise provided that his age is 50 years. This would probably give

the desired result. I admit that this scheme is attractive. It is simple, democratic and impartial; and it secures that in the initial elections the franchise is confined to the wiser and older members of the population. Moreover, the scheme can be justified by the precedent of woman-suffrage in Great Britain. The number of women-voters has been reduced, at least during the first stages of the experiment, by the simple expedient of fixing the minimum age at 35 years. As far as I am aware, all Indians who have discussed the problem of their electorates have assumed that the only possible criterion is property, or taxation, or education. Certainly the simple criterion of age had not occurred to any Indian of my acquaintance until I specifically suggested it to him. I found that the suggestion was generally received as one well worthy of consideration. For the present I only mention it as a possible, and attractive, alternative to the scheme which I propose.

5. What I have written in last paragraph reminds me that there is one point, relevant both to my main scheme and to my alternative scheme, which should not pass unnoticed. I refer to the question of votes for women. Personally I think that when the head of a duly qualified household happens to be a woman—in other words, when the *Karta* is in fact a *Kartri* or *Grihini*—that woman should be entitled to exercise the franchise. In the valleys of Assam such cases will be comparatively rare, but when the hill districts come to be included in the scheme, the matter will immediately assume great importance. Anyhow, this is a problem which may well be left to the decision of Indians themselves.

6. The accompanying table shows how I would frame the constituencies. In each Valley there will be 150,000 voters returning 15 members while the racial division will be as follows:—

	Hindus.	Muhammadans.
Surma Valley	7	8
Assam "	13	2
Total	20	10

As the Hindu voters (203,000) are to the Muhammadan voters (97,000) in the ratio of two to one, so also the distribution of seats has been made in the same ratio. The table, I hope, is practically self-explanatory, but I add a few notes to make it quite clear:—

(*a*) The expression Hindu, for the reason given in the main note, includes not only Hindus of all castes, but also Animists, Ahoms, and Indian Christians. "Non-Muslim Indians" would have been a more accurate, though less convenient, description.

(*b*) The North Cachar Hills have been excluded from Cachar, and the Mikir Hills from Nowgong and Sibsagar.

(*c*) As far as possible integral districts or integral subdivisions have been taken as the electoral units. The exceptions are indicated by the absence of the words "district" or "subdivisions" in column 2 or column 5, as the case may be. For example, the Hindu constituencies of Cachar are called Sadar and Hailakandi, not Saddar Subdivision and Hailakandi Subdivision. This is because it has been found

necessary to transfer the Katigora Tahsil, for electoral purposes only, from the Sadar to Hailakandi. Even after this transfer the Hailakandi electorate is rather small; without the transfer the disparity would have been still more marked. Minor transfers of a somewhat similar nature were found necessary in the Hindu constituencies of Goalpara, Kamrup, Lakhimpur, while two of the Subdivisions of Sylhet-Sadar and Habiganj were found capable of sending two Muhammadan members each. Generally speaking, however, the ordinary administrative units have been adopted for the purpose of constituencies.

(d) The percentages of literacy (columns 4 and 7) are approximate figures. It has been assumed that the standard of literacy among the heads of the "comfortable" households of a particular community is approximately three times as great as the general standard of literacy among adult males in the same community of the district in question.

(e) No attempt has been made to estimate the distribution of wealth among the different classes of the electorates. The towns, as already noted, are small and unimportant. They contain some professional men, some clerks and some shopkeepers; but broadly speaking the electorates will be made up of cultivators and garden coolies. In neither of these categories is there any marked difference in the distribution of income between the various races. So far as cultivators are concerned, the various races obtain approximately similar incomes, but the Muhammadans are generally more improvident than the Hindus, and the Animists more improvident than either. The coolies as a class, being drawn from the lower strata throughout India, are seldom inclined to frugality or excessive sobriety.

N. D. BEATSON BELL.

Proposed Electorates.

District (with total population, Hindu and Muhammadan).		HINDU.			MUHAMMADAN.		
		Constituency.	Estimated		Constituency.	Estimated	
			Number of voters.	Percentage of literacy.		Number of voters.	Percentage of literacy.
1		2	3	4	5	6	7
CACHAR.							
Hindu	314,000	Sadar	10,000	47	Whole district	7,000	24
Muhammadan	156,000	Hailakandi	6,000	47			
Total	470,000						

District (with total population, Hindu and Muhammadan).	HINDU.			MUHAMMADAN.		
	Constituency.	Estimated		Constituency.	Estimated	
		Number of voters.	Percentage of literacy.		Number of voters.	Percentage of literacy.
1	2	3	4	5	6	7
SYLHET.						
Hindu . . . 1,108,000	Sadar Subdivision	10,000	60	North Sadar .	8,000	22
Muhammadan . 1,365,000	Sunamganj Subdivision.	10,000	60	South Sadar .	10,000	22
Total . 2,473,000	Habiganj Subdivision.	13,000	60	Sunamganj Subdivision.	14,000	23
	South Sylhet Subdivisions.	12,000	60	North Habiganj .	8,000	23
				South Habiganj .	9,000	23
				South Sylhet Subdivision.	9,000	23
	Karimganj Subdivision.	12,000	60	Karimganj Subdivision.	12,000	23
Total Surma Valley .	7 Hindu Constituencies.	73,000	.	8 Muhammadan Constituencies.	77,000	...
GOALPARA.						
Hindu . . . 398,000	Dhubri . .	11,000	38	Whole district .	12,000	21
Muhammadan . 212,000	Goalpara . .	8,000	38			
Total . 610,000						
KAMRUP.						
Hindu . . . 603,000	East Gauhati .	9,000	44	Upper Assam Valley.	8,000	40
Muhammadan . 65,000	West Gauhati .	9,000	44			
Total . 668,000	Barpeta . .	12,000	40			
DARRANG.						
Hindu . . . 357,000	Tezpur Subdivision	10,000	24			
Muhammadan . 20,000	Mangaldai Subdivision.	8,000	24			
Total . 377,000						
NOWGONG.						
Hindu . . . 232,000	Whole district .	11,000	30			
Muhammadan . 16,000						
Total . 248,000						
SIBSAGAR.						
Hindu . . . 637,000	Jorhat Subdivision	12,000	35			
Muhammadan . 30,000	Sibsagar Subdivision.	11,000	35			
Total . 667,000	Golaghat Subdivision.	8,000	35			
LAKHIMPUR.						
Hindu . . . 456,000	Dibrugarh . .	12,000	30			
Muhammadan . 13,000	North Lakhimpur	9,000	30			
Total . 469,000						
Total Assam Valley .	13 Hindu Constituencies.	130,000	...	2 Muhammadan Constituencies.	20,000	...
Total both Valleys .	20 Hindu Constituencies.	203,000	...	10 Muhammadan Constituencies.	97,000	...

No. 7223, dated Delhi, the 14th October 1918.

From—Lieutenant-Colonel H. C. BEADON, I.A., Officiating Chief Commissioner, Delhi,

To—The Secretary to the Government of India, Home Department, Simla.

I have the honour to acknowledge your letter no. 956, dated the 15th July 1918, in which I am asked to record my views on the proposals set forth in paragraphs 212 to 295 of the Reform proposals which have been formulated by His Excellency the Viceroy and the Right Hon'ble the Secretary of State. In complying I propose to record first my remarks on such paragraphs as effect the Delhi Province and then to comment on such paragraphs as appear to me to require modification in the event of legislation on the proposed lines being undertaken.

2. The only paragraphs which seem to affect Delhi in the whole report are paragraphs 198 and 274. The former is outside the scope of this reference, but I venture to note upon it is as it is analogous to the paragraphs relating to Council Government about which reference is made. I do not think that an Advisory Council to the Chief Commissioner would be advisable for the simple reason that the administrative work in so small area is almost all formal: the practice is to follow the Punjab Government in all matters as closely as possible. It must be rememebered that the province is merely a nominal province, which was created in order to facilitate the Imperial Capital being build under the direct control of the Government of India: as matters stand at present the whole tract is under the immediate administration of the Municipal Committee and District Board, both of which are practically Indian in character. In paragraph 274 it is suggested that the Delhi Provinces should be given one seat in the Legislative Assembly. To this there can be no objection unless of course in any reconstitution of Provinces it is ruled that Delhi, having as a Province served its purpose, shall be merged again into the Punjab or other major Province.

3. Paragraphs 214—223. I quite agree that Council Government is a desideratum, but I think that in paragraph 218 the proposals should be amended in two respects. Firstly I do not realise why there should be any differentiation between members and ministers. I consider that the Governor's executive colleagues should all be on one footing as regards powers and position, although the system of recruitment may be different. As a corollary to this I regard it as unnecessary to definitely classify subjects as reserved and transferred: for the Governor should have the power to hand over to his councillors such departments as seemed to him to be suitable. In practice no doubt he would place his elected councillors in charge of "popular" subjects, but it would be a cramping policy to tie him down. Then I am of opinion that the Council should be decidedly larger than is proposed; the Governor having no portfolio, there would be but three or at most four councillors and ministers to carry out the administration. Such might suffice in the smaller provinces, but in the larger it would cause an undesirable collection of departments under one Member. The giving to an officer multifarious duties is a horrible Oriental habit which has been contracted through a spirit of financial economy, but it is really false economy in the end. I am sure that for any large province the Executive Council should consist of at least six members, corresponding to the

civil members now forming the Executive Council of the Governor-General.

In this connection I note that it is hardly to be expected that the Provinces will remain as they are now: India, excluding Burma and the North-West Frontier Province, ought not to contain more than six provinces when the provinces come under full Council Government. I also note that the Law and Justice Member should be in charge not only of Legislation, but should relieve the Hon'ble Judges of all administrative work. I regard this as a most important reform. The question raised in paragraph 220 of permitting a Governor to appoint Additional Council Members without portfolio seems in any case premature and is a matter which might be left for action to be taken in the light of experience.

4. Paragraph 224. I see no objection to power being taken to appoint officials to positions analogous to that of a Parliamentary Under-Secretary, but the necessity of such appointments must depend on the number of executive councillors and the volume of business which may arise.

5. Paragraphs 225—233. These paragraphs are the most important in the whole report. They form the foundation of a great superstructure which has been designed, and it will be for the special committee to find material for the construction of the foundations. If the committee can find good material the superstructure can be erected, but if they cannot this particular Reforms Scheme must be shelved until Indian education and character have reached a higher standard.

In these paragraphs it is postulated that electorates must not be communal and that there must be direct connection between members of a Legislative Council and the original voters. Such theories are based on the English conception of democratic rule and representative Government: the idea of mixed electorates is wholly opposed to Oriental ideas and their introduction will cause intense dissatisfaction in Northern India: racial and inter-creed feeling will be accentuated to such an extent that elections will be impossible. In respect to the direct elections of members of a Legislative Council by original voters, it is obvious that the preparation and maintenance of electoral rolls and the miscellaneous work attendant on elections will be so vast, that the difficulties of giving effect to the scheme will prove insuperable. I do not deem it advisable to write at length on these subjects, because there is really very little chance of mixed electorates or a system of direct elections being established with the next generation: I merely emphasise that, unless good material can be found for the foundations, the superstructure must not be built.

6. Paragraph 235. Standing Committees with advisory functions only are suggested as a regular feature of the constitution. This form of Committee has found a good deal of favour of late with Government and has been advocated for excise and other purposes. I have noticed, too, in the late Resolution on Local Self-Government that the Government of India have suggested advisory official members being attached to Municipal Committees. I must confess that I do not see the advantages of these appointments to advisory committees or posts. The average official when he wants advice asks for it from those who are likely to be able to help him, and the average individual—certainly the individual with

any personality—is not going to sit on a committee unless he is empowered to vote, nor on any committee which has no power to decide a question. A capable official will have little use for a formal advisory committee and a week official will shelter himself behind it.

7. Paragraph 236. It is proposed that the Governor shall be President of his Legislative Council. I am very doubtful if this is a wise suggestion. It seems to me that in normal times even the Head of the Government should, from a sense of dignity, keep aloof from the actual legislative business and that it would be most unfortunate if he were in the chair when passions run high: a time must come when disgraceful scenes, similar to those which occur in the House of Commons, will occur. For this reason I should like to see the Governor not a member of his Legislative Council. It may be a narrow view to take of the question, but Government in the East rests on prestige and any weakening of the Governor's position would be calamitous. We have already seen and deplored how the Indian Press has taken to abusing the highest officials in terms highly repugnant to our finer feelings: such written ebullitions have made little headway owing to official traditions and our national character, yet no Governor could with proper dignity preside at meetings where the acts of his Government are being both adversely and eternally criticised—and as often as not in a future fashion.

8. Paragraph 252. The procedure suggested for circumventing in special cases Legislative Council does not seem sound. The idea seems to be that when any really important Bills is contemplated the Governor is invited to assume that his Legislative Council will fail him and to issue a certificate which will cause the Bill to be dealt with by a Grand Committee, or in plain language by a packed jury. Such a suggestion strikes at the very root of the principle of a responsible Legislative Council, who certainly ought to be given a chance of showing intelligence. It seems to me that the obvious way of counteracting a foolish or perverse note in a Provincial Council on a Bill of vital importance is for the *Provincial Executive Government*, who after all are responsible for the administration, to appeal to the Government of India to authorise their gazetting the Bill, modified if necessary, as an Act. Unless Legislative Councils prove to be thoroughly inefficient and prejudiced, such occasions ought to be very rare.

9. Paragraphs 273 *et seq.* I am such opposed to any immediate alteration in the existing Supreme Legislative Council, and in the system of legislation by the creation of a State Council. Firstly, the Provincial Councils will be on trial, and we ought certainly to wait and see how they work. It will be, I opine, decidedly difficult to secure the services of sufficient capable men for the Provincial Councils, and it will be a misfortune if the best are drained off and passed on to the Supreme Government. Secondly, as the Provincial Governments will be in a measure autonomous, the legislative duties of the Government of India ought to be fairly light. During the Financial year 1917-18 debates in Council on bills took place on 17 days, and 5 days were spent in discussing the financial statement: the greater part of the time of the Council was wasted over the froth of Council work—questions and academic resolutions. These statistics do not indicate that the Legis-

lative Council of the Government of India should be either increased or duplicated.

10. Paragraph 287. I do not understand what will be the functions of the Privy Council. It will in effect merely create an additional Heading for the 'Honours Gazette' through the illusion of an elastic Council with undefined duties. The Privy Council of England is needed, apart from its judicial section, as an advisory Council for His Majesty, who does not preside over Cabinet meetings: the members are, I understand, His Majesty's consultants: in the constitution of India, His Excellency the Viceroy presides over his Council meetings and consequently is more in touch with affairs. In fact in England the rule is that of the King and in India the rule is that of the Governor-General and Council.

I think that we, who are of British descent and who have always held His Majesty's Privy Council in such respect, would be sorry to see created in India, except for very strong reasons indeed, a body having the same name as one composed of the Empire's greatest statesmen. I do not recognise the reason for permitting only Indian members of the projected Privy Council to retain the title of Hon'ble for life.

11. Now the fact that I have proposed alterations must not be taken to mean that I approve of the published scheme or the paragraphs under consideration. The fact that the scheme has been propounded by such high officers of State makes it rather difficult for any Government servant to express his opinions freely, but writing with the authority of long experience and having been up to a few days ago in close touch with the masses as a District Officer, I am bound to record that I think the reforms should have been on other lines. The authors of the scheme seem to have formed the impression from the start that India is desirous of revolutionary changes, whereas in reality it is only revolutionary changes that are suitable. High officials meet only the most enlightened and most highly educated Indians and seem to forget how small a proportion of the general populace these are. In this connection I have tried to analyse the situation as regards reform in Delhi Province. In round figures the *adult* male population of the Delhi Province is 1 lakh (the total population being nearly 4½ lakhs). The Home Rule League consists of 480 persons, many of whom are merely curiosity mongers and it is fair to assume that considerably less than 5 per cent. of the male *adult* population can be described as "interested in politics." It is most improbable that more than 100 people in Delhi have digested the Report and assuming that they are all in favour of it, we can reckon that not more than one per mille of the *male adult population* are supporters of the schemes: these figures do not indicate that there is any local demand for change beyond that of gradual evolution.

It seems to me that the practical position in India is as follows:—

The politicians and educated community have really taken up the position that having become educated they must no longer be classified with the illiterate masses. They say in effect "we have educated ourselves on European lines and we want to take a full share in ruling the country." The reply of the Reforms report is to offer the politicians a partially representative Government. I am sure that it would have been much better to have maintained the present form of bureaucratic Government giving Indians better opportunities of entering such. The

educated Indians ought not to be thrust directly into high positions of State, but aspirants for office should begin at the bottom of the services like everyone else, and others should prove their worth in Rural and Urban councils.

This is the more rational course to follow and it fulfils the Queen's Proclamation of 1858 which lays down that "*so far as may be* Our subjects of whatever Race or Creed shall be freely and impartially admitted to offices in Our service, the duties of which they may be qualified by their education, ability and integrity to discharge." The words "so far as may be" were entered in the Proclamation purposely.

SGPI—S6 104 H D—24-6-19. 10,000